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PART 6. TAX SALES

- Chapter 1. Publication of Delinquent List and Notice of Sale. §§ 3351-3385.
- 2. Sale by Operation of Law. §§ 3436-3448.
- 2.2. Medium of Payment. §§ 3450-3457.
- 4. Deed to State. §§ 3510-3522. [Repealed.]
- 4.3. Classification of Tax-Deeded Property. §§ 3534-3556. [Repealed.]
- 5. Quieting Title Under Tax Deed. §§ 3591-3617.
- 5.7. Taxpayer's Action to Contest the Validity of Tax Sale or Tax Deed. §§ 3618-3638.
- 6. Power of State to Rent Tax-Deeded Property. §§ 3651-3660.
- 7. Sale to Private Parties After Deed to State. §§ 3691-3731.1.
- 8. Deed to State, County, or Public Agencies. §§ 3771-3841.
- 9. Correlative Rights of Taxing Agencies. §§ 3900-3913. [Repealed.]
- 10. Rights of Purchaser of Tax-Deeded Property, or Any Other Person Claiming Through Him, to Bring Action to Determine Adverse Claims to or Clouds Upon Tax-Deeded Property Purchased From the State. §§ 3950-3972.

(A) SUMMARY OF LAW RELATING TO TAX DELINQUENT PROPERTY

The tax collector is required to publish the delinquent list annually, showing all property on which taxes for the fiscal year are unpaid. If the taxes are not thereupon paid, the property, "by operation of law and the declaration of the tax collector," is "sold to the state." (See Section 3436.)

After a period of five years, during which the taxpayer retains the legal title to the property and has the privilege of redeeming it upon payment of the amount due, the property is deeded to the state and is known as "tax-deeded property." Such property is subject to redemption as long as title remains in the state unless the state quiets its title as hereafter described. The tax collector may sell tax-deeded property at public auction, the lowest acceptable bid being the minimum price approved in a resolution of the board of supervisors.

In 1938 provisions for quieting title to tax-deeded property, now contained in Chapter 5, were adopted, under which title to all property in the same county "sold to the state" in the same year may be quieted in a single action to be brought by the district attorney of the county. If no invalidities are found, the final decree quiets the state's title to the property and terminates the right of redemption. Under Chapter 5.7, added in 1941, the owner of tax-sold or tax-deeded property may himself bring an action to test the validity of the tax sale or the tax deed. As to tax-deeded property the time within which an action may be brought under Chapter 5.7 is limited to one year after the execution of the deed by Section 175. In either an action brought by the district attorney or an action brought by the owner, if invalidities are found, proper steps must be taken to correct the same as directed by the court, and the owner then has one year, in the former type of action, and six months in the case of an action brought by himself, after the interlocutory decree becomes a final judgment, to pay the amount of taxes due upon the property. No interest or penalties are required to be paid. Chapter 10, added in 1943, authorizes an action by a purchaser of tax-deeded property to determine adverse claims thereto.

State lands upon which the full purchase price has not been paid and which have been deeded to the state for delinquent taxes are again subject to entry and sale. (See Public Resources Code Section 7993.) For a summary of the different methods of enforcing the collection of taxes by sale of real property in effect during various periods from 1850 to 1936, see 1936 Revenue Laws, p. 179.

(B) DECISIONS OF GENERAL APPLICATION

Constitutionality.—The provisions of the California law relating to tax sales are not violative of due process, in view of the opportunity to be heard as to the fairness of the original assessment, the notice provided with respect to both the sale to the state and the sale at public auction, and the five-year period of redemption allowed. It is immaterial that either the value of the property or the amount for which it is sold at auction is greatly in excess of the amount due. The five-year redemption period was intended in part to allow the taxpayer an opportunity to protect himself against such a contingency. *Chapman v. Zobelein*, 237 U.S. 135. See also *Fox v. Wright*, 152 Cal. 59; *Merchants Trust Co. v. Wright*, 161 Cal. 149; *McMaster v. City of Santa Rosa*, 27 Cal.App.3d 598.

Statutory provisions must be strictly followed.—Proceedings on tax sales are *in invitum*, and it has been held that a failure strictly to comply with the statutory requirements renders a sale invalid (*Dougery v. Bettencourt*, 214, Cal. 455) and leaves the property still subject to redemption. *Miller v. Williams*, 135 Cal. 183. The maxim *De minimis non curat lex* has no application with respect to such proceedings. *Warden v. Ratterree et al.*, 215 Cal. 215.

Thus, notwithstanding the provisions of Section 3518, various errors in the delinquent list, in the publication thereof, and in the tax sales have been held to render the proceedings invalid. See Sections 3361, 3372 and 3436, and cases there cited. It is to be noted, however, that in some cases errors are cured by the tax deed, under Sections 3518 and 3711, and that certain irregularities are rendered immaterial by Section 24 or are cured by a validating act.

A purported waiver by the taxpayer of irregularities in the proceedings is not effective. *So. California Bond & Finance Corp. v. Mathes*, 206 Cal. 749.

Validating acts.—The legislature may cure, by a retrospective statute, omissions or irregularities in respect to details which are specified by statute but which are not required as a matter of constitutional law. See the validating act set forth in the General Law Provisions, *infra* this volume, and annotations, *McMaster v. City of Santa Rosa*, 27 Cal.App.3d 598.

Costs.—It is not the policy of the state to increase the burdens of taxation beyond the necessary cost of collection, or to impose any greater burdens in a redemption from a delinquent tax sale than are necessary to secure the payment of the original tax. All matters of taxation are resolved in favor of the taxpayer, and express statutory authorization should be found for each item of cost to be imposed upon him. *San Francisco etc. L. Co. v. Banbury*, 106 Cal. 129, 134.

Law governing.—A statute increasing the amount required for redemption may not be applied with respect to property sold prior to its enactment. *Terralta Land, etc. Co. v. Shaffer*, 116 Cal. 518. The Legislature may, however, as regards property previously sold to the state, relieve the owner of burdens imposed upon him under the law at the time the sale is made (*Collier v. Shaffer*, 137 Cal. 319), or extend the period of redemption (*Anglo California National Bank v. Leland*, 9 Cal.2d 347), or make changes affecting solely matters of procedure. *Clayton v. Schultz*, 4 Cal.2d 425.

A sale of tax-deeded property is governed by the law in force at that time. *Bray v. Jones*, 20 Cal.2d 858; *Title Guarantee and Trust Co. v. Woody*, 63 Cal.App.2d 209. Compare *Billings v. Delgado*, 51 Cal.App.2d 489, holding that the 1935 amendment to Political Code Section 3897 providing that the tax deed from the state to a private purchaser conveyed a title free of encumbrances, did not apply to a sale in 1937, the law in effect at the time of the sale to the state being controlling. Compare also *Smith v. Addiego*, 54 Cal.App.2d 230, and *Campbell v. Woolner*, 57 Cal.App.2d 511, holding that the title conveyed by the deed from the state is governed by the law in force at that time or at the time of the deed to the state.

Duties may be performed only by designated officers.—All the duties in connection with the redemption of property being confided by law to specially designated officers, they can be performed by no one else. Consequently, a board of supervisors is without power to contract with a private individual for the collection of taxes on tax-sold property. *House v. Los Angeles County*, 104 Cal. 73. A county may not institute suit for the collection of delinquent taxes except as specifically authorized by statute. *Santa Barbara County v. Savings & Loan Society*, 137 Cal. 463.

Proceedings void in certain cases.—Proceedings under this Part are void if in fact there is no delinquency (*Boyer v. Gelhaus*, 19 Cal.App. 320), or if the property in question is exempt from taxation (*Brooks v. Tulare County*, 117 Cal. 465; *Webster v. Board of Regents of University of California*, 163 Cal. 705; *Warren v. San Francisco*, 150 Cal. 167), has been redeemed (*Jones v. Sturzenberg*, 59 Cal.App. 350), or is acquired by a municipality subsequent to the sale to the state. *Smith v. City of Santa Monica*, 162 Cal. 221.

Acquisition of tax title by owner.—An owner of real property who has defaulted in the payment of taxes thereon has no right, in the absence of an affirmative legislative recognition thereof, to purchase the property at a tax sale *Garvey v. Byram*, 18 Cal.2d 279. The 1943 amendment to Section 3691, however, appears to have established the right of the former owner to purchase tax-deeded property.

An owner of real property who has defaulted in the payment of taxes thereon, as well as those claiming under him, may not add to or strengthen his title by purchasing the property at a tax sale or by acquiring the tax title from a stranger. Thus, such action has been held not to affect the title of timber held in separate ownership (*Gates v. Lindley*, 104 Cal. 451), or the rights of a mortgagee. *Barnard v. Wilson*, 74 Cal. 512; *Dinkelman v. Harrison*, 61 Cal.App.2d 258.

(C) INJUNCTIVE RELIEF

When available.—An injunction will not be granted to restrain the sale of property for delinquent taxes unless it appears that the enforcement of the tax would lead to a multiplicity of suits or produce irreparable injury, or, in the event that the property is real estate, it would cast a cloud upon the title. *Crocker v. Scott*, 149 Cal. 575, 594.

In determining whether a cloud would be cast upon the title, the test is whether or not the taxpayer would be required to offer evidence to defeat a claim based upon the tax deed. See *Pixley v. Huggins*, 15 Cal. 127, 133; *Chase v. Treasurer of City of Los Angeles*, 122 Cal. 540, 542; *Las Animas etc. Land Co. v. Preciado*, 167 Cal. 580.

When, in view of the presumptions which attach to a tax deed (see Sections 3517 and 3518), a taxpayer must offer evidence in order to defeat a claim based thereon, the deed casts a cloud upon his title and injunctive relief will be granted. *Chase v. Treasurer of City of Los Angeles*, *supra*. Relief will not be granted, however, against the issuance of a deed which would be void on its face. *Hollister v. Sherman*, 63 Cal. 38; *Russ & Sons Co. v. Crichton*, 117 Cal. 695.

Neither will an injunction be granted against the sale to the state by operation of law under Section 3436. Since the only effect of such a sale is to start running the five-year period within which redemption can be effected, it does not cast a cloud upon the title of the owner. *Crocker v. Scott*, *supra*.

Tender of tax due.—A complaint not alleging payment or offer of payment of the tax justly due states no cause of action in a suit to restrain the execution of a tax deed to the state because of the invalidity of the original assessment. *Couts v. Cornell*, 147 Cal. 560.

It is not necessary, however, that there be a payment or tender of any specific sum when, under the allegations of the complaint, the amount of the taxes legally due is so uncertain that any specific sum offered would be purely speculative. *Charles v. City of Crescent City*, 14 Cal.2d 234. Cf. *Los Angeles County v. Ransohoff*, 24 Cal.App.2d 238, in which the court directed that judgment be entered in favor of the county for the amount of taxes found to be due on an equitable assessment.

The principle applied in the two preceding paragraphs has also been invoked in actions to enjoin the sale of lands for delinquent irrigation district assessments (*Imperial Land Co. v. Imperial Irrigation District*, 173 Cal. 660; *Quint v. Hoffman*, 103 Cal. 506); in actions by a property owner against purchasers at a void tax sale to quiet title or for cancellation of the deeds (*Holland v. Hotchkiss*, 162 Cal. 366; see Section 3728); in actions to recover taxes paid (*De Mille v. Los Angeles County*, 25 Cal.App.2d 506); and in actions to enforce the collection of taxes. *Los Angeles County v. Ballerino*, 99 Cal. 593.

CHAPTER 1. PUBLICATION OF DELINQUENT LIST AND
NOTICE OF SALE

- Article 1. Generally. §§ 3351-3353.
1.5. Deeds to the State. §§ 3361-3366.
1.7. Published Delinquent List. §§ 3371-3375.
1.8. Alternative Method of Publication. §§ 3381-3385.

Article 1. Generally *

- § 3351. Notice of impending default for failure to pay taxes.
§ 3352. Form and content of notice.
§ 3353. Manner of publication.

3351. Notice of impending default for failure to pay taxes. (a) Annually, on or before June 8, the tax collector shall publish a notice of impending default for failure to pay taxes on real property, except tax-defaulted property and possessory interests, the taxes, assessments, penalties, and costs on which will have not been fully paid by the close of business on the last business day of the fiscal year.

(b) If the tax collector sends reminder notices prior to the close of the fiscal year and annually sends a redemption notice of prior year due taxes, the notice required by subdivision (a) shall only include properties that have been tax-delinquent for three or more years and for which the latest reminder notice or redemption notice was returned to the tax collector as undeliverable.

History.—Stats. 1943 p. 1936, in effect August 4, 1943, substituted “delinquent roll” for “delinquent list” in subdivision (a) and subdivision (b), and “published delinquent list” for “delinquent list” in last paragraph, and added last clause to subdivision (b) (1). Stats. 1949, p. 465, in effect October 1, 1949, substituted “endorsed” for “indorsed” and added the clause relating to the secured roll in subdivision (a), substituted “on which the taxes are unpaid” for “on the delinquent roll” in subdivision (b), added the clause relating to the secured roll in subdivision (b) (3) and made technical changes in the last paragraph. Stats. 1967, p. 2341, in effect November 8, 1967, substituted the balance of the Section after “shall” for the former provisions which are now found in Section 3372. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “impending default for failure to pay taxes on” for “his intent to sell to the state the” after “notice of”, substituted “tax-defaulted property” for “tax-sold property” after “except”, and substituted “by 5 p.m. on the last business day of the fiscal year” for “at the time set for the sale” after “paid”. Stats. 1991, Ch. 532, in effect January 1, 1992, substituted “8” for “8th” after “June” and substituted “the close of business” for “5 p.m.” after “paid by”. Stats. 2002, Ch. 723 (AB 1008), in effect January 1, 2003, designated the former first paragraph as subdivision (a) and added “business” after “on the last” in the first sentence therein; and added subdivision (b).

Note:—See note following Section 2194.

Note.—Section 5 of Stats. 2002, Ch. 723 (AB 1008) provided that:

(a) The Legislature finds and declares each of the following:

(1) California is currently experiencing a severe shortage of affordable housing. According to the California Department of Housing and Community Development, currently about 2.4 million California households need some form of housing assistance, that is, those households are low-income and are overpaying for housing costs. According to the California Budget Project, statewide there are approximately 2.3 low-income renter households per affordable unit, or a shortage of 581,000 units.

(2) Given this shortage of affordable housing, the state cannot afford to lose units from the marketplace due to deterioration and condemnation for building code violations.

(3) Prevention of real property deterioration is a legitimate government interest, and funding for local programs that increase efforts to enforce building codes is an important tool in preventing affordable housing from being removed from the market.

(b) The Legislature further finds and declares that there may be a link between real properties that are delinquent in payment of property taxes and building code violations, and that this issue is worthy of study. It is therefore the intent of the Legislature, pursuant to Section 7 of this act, to make available to the University of California data, with respect to tax-delinquent properties, collected by local tax collectors and described in Section 7 of this act.

(c) The Legislature further finds and declares that there are costs incurred by local tax collectors in providing the information required for the study pursuant to Section 7 of this act, and that these costs may be offset by correspondingly eliminating unnecessary costs incurred by local tax collectors in fulfilling the notice requirements pursuant to Sections 3351 and 3371 of the Revenue and Taxation Code. Therefore, it is the intent of the Legislature, in amending Sections 3351

* Stats. 1967, p. 2341, in effect November 8, 1967, completely revised the procedures found in former article 1 by amending some sections, deleting those portions of article 1 dealing with publication of notice of deed to the state and the delinquent list, and adding articles 1.5 and 1.7, which treat those two subjects in a somewhat new manner.

and 3371 of the Revenue and Taxation Code in this act, to offset the costs incurred by local tax collectors in providing the information required for the study pursuant to Section 7 of this act.

Section 6 thereof provided that:

(a) The University of California may need to obtain data in order, to the extent possible, to study the following:

(1) The breakdown of tax-delinquent properties by residential, commercial, and industrial properties.

(2) The breakdown of tax-delinquent properties by length of delinquency.

(3) The potential of tax-delinquent properties to provide affordable housing.

(b) In order to obtain the data necessary to perform this study, the University of California shall notify the Controller, in writing, that it is requesting the data required to be published pursuant to Chapter 1 (commencing with Section 3351) of Part 6 of Division 1 of the Revenue and Taxation Code.

(c) Within 14 days of receipt of the request for data from the University of California, the Controller shall request from county tax collectors for the most recently completed fiscal year and the current fiscal year the information requested pursuant to subdivision (b). The tax collectors shall provide the requested information for the most recently completed fiscal year within 14 days of receipt of the request and the information for the current fiscal year by the following September 15. The tax collectors shall transmit the requested information in electronic text format if possible. Data fields shall include, if possible, assessor's parcel number, situs address including ZIP Code, duration and amount of tax delinquency for each parcel, and associated zoning designations such as residential, commercial, or industrial. The Controller shall transmit that information to the University of California within 14 days of receipt of the information requested from the county tax collectors.

(d) The University of California may not sell, rent, or exchange information it obtains pursuant to this section.

Section 7 thereof provided that no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

Construction.—Posting improved real property constitutionally required as a prerequisite to its divestiture where the statutory procedures for giving notice of impending tax sales are constitutionally insufficient as to the equitable owners of the property in actual possession, who had no reason to believe that the required taxes had not been paid. *Banas v. Transamerica Title Ins. Co.*, 133 Cal.App.3d 845.

3352. Form and content of notice. The notice shall be in the form of an affidavit and shall show:

(a) That unless paid, the amount due shall be in default.

(b) The time at which the default will occur by operation of law.

(c) The fact that if tax defaulted, the real property may be redeemed by the payment of the amount of defaulted taxes together with such additional penalties and fees as prescribed by law, or that the real property may be redeemed under an installment plan of redemption.

(d) The fact that tax-defaulted real property will be subsequently sold in satisfaction of the tax lien unless that property is redeemed or an installment plan of redemption is initiated and maintained.

(e) The fact that a publication of a detailed listing of all real property which is tax defaulted will be initiated on or before September 8th, unless that property is sooner redeemed.

History.—Stats. 1955, p. 839, in effect September 7, 1955, substituted "total amount due is" for "taxes, penalties, and costs are" and "the total amount is" for "they are" in subdivision (a). Stats. 1967, p. 2341, in effect November 8, 1967, revised this section to conform to the amendment to Section 3351, and added subdivisions (c), (d), (e) and (f). Stats. 1984, Ch. 988, in effect September 11, 1984, deleted "the total amount due is" after "unless", deleted "real property on which the total" after "the", and substituted "shall be in default" for "is a lien will be sold to the state" after "due" in subdivision (a); deleted "and place" after "the time" and substituted "the default will occur" for "property will be sold to the state" after "which" in subdivision (b); substituted "tax defaulted" for "sold to the state" after "if", and substituted "defaulted taxes" for "sold taxes" after "of" in subdivision (c); added "tax-defaulted" after "that", deleted "which is sold to the state for delinquent taxes" after "real property", substituted "sold in satisfaction of the tax lien" for "deeded to the state, at the time prescribed by law" after "subsequently, and substituted "that" for "such tax-sold" before "property" in subdivision (d); deleted former subdivision (e) which provided "The fact that real property deeded to the state may be sold at public auction or otherwise conveyed, unless such real property is redeemed."; and relettered former subdivision (f) as (e), and substituted "tax-defaulted" for "sold to the state" after "is" and substituted "that" for "such" after "unless" therein.

Note.—See note following Section 2194.

3353. Manner of publication. Publication shall be made pursuant to Section 6063 of the Government Code in the county. If no newspaper of general circulation is published in the county, the publication shall be made

by posting in three public places in the county. The cost of publication shall be at no more than the rate fixed by the board of supervisors for other county advertising.

History.—Stats. 1949, p. 467, in effect October 1, 1949, substituted “ ‘to be deeded to the State’ ” for “ ‘to be sold at public auction’ ” and substituted “ ‘See No.’ ” for “ ‘See sale No.’ ” Stats 1967, p. 2341, in effect November 8, 1967, revised the section.

Article 1.5. Deeds to the State *

- § 3361. Notice of power and intent to sell tax-defaulted property.
- § 3362. Content of notice.
- § 3363. Manner of publication.
- § 3364. Copy filed, affidavit.
- § 3365. Notice to assessee of default and power to sell property.
- § 3366. Content of special notice.

Note.—See history note under Article 1.

3361. Notice of power and intent to sell tax-defaulted property. Annually, on or before June 8th, the tax collector shall publish a notice of power and intent to sell all property which will be tax-defaulted for five years or more on the date specified.

History.—Stats. 1984, Ch. 988, substituted “of power and intent . . . date specified” for “of his intent to deed to the state all real property which was previously sold to the state and which is subject to deeding to the state” after “notice”.

Note.—See note following Section 2194.

3362. Content of notice. The published notice shall show:

- (a) The date of the notice.
- (b) That on July 1, five years or more will have elapsed since the property became tax defaulted.
- (c) That, unless sooner redeemed or an installment plan of redemption is initiated, the property will be sold.
- (d) That the power to sell for nonpayment of taxes arises if the property remains tax defaulted at 12:01 a.m. on July 1.
- (e) That if the property is sold for nonpayment of taxes the right of redemption will terminate.
- (f) The official who will furnish all information concerning redemption.
- (g) The fiscal year for which the defaulted taxes were levied.
- (h) A description of the property. The assessments contained in this notice shall be numbered in ascending numerical order.
- (i) The amount of taxes originally declared in default opposite the description of the property.
- (j) The name of the assessee on the current roll.
- (k) The street address of the property, if any, shown on the county assessment records.

History.—Stats. 1984, Ch. 988, in effect September 11, 1984, deleted “of intent to deed to the state.” after “notice” in the first sentence; substituted subdivision (b) for former subdivision (b) which provided “that the number of years prescribed by law will have elapsed on the date set for deeding to the state since the property was sold to the state”; substituted subdivision (c) for former subdivision (c) which provided “That the property will be deeded to the state, unless sooner redeemed or an installment plan of redemption is initiated”; substituted “power to sell for nonpayment of taxes arises” for “property will be deeded to the state, which date and time shall not be less than 21 days after the first publication” after “the” in subdivision (d); deleted former subdivision (c); relettered former subdivision (f) as (e), and substituted “sold for nonpayment of taxes” for “deeded to the state”, and deleted “upon any subsequent sale, or other conveyance, by the state” after “terminate” therein; relettered former subdivision (g) as (f); deleted former subdivision (h); substituted subdivision (g) for former subdivision (i) which provided “the year of the sale to the state and the fiscal

* Article 1.5 was added by Stats. 1967, p. 2342, in effect November 8, 1967.

year for which the taxes were levied"; relettered former subdivision (j) as (h); relettered former subdivision (k) as (i), and substituted "of taxes originally declared in default" for "for which the property is to be deeded" therein; and relettered former subdivision (l) and (m) as (j) and (k), respectively. Stats. 1991, Ch. 532, in effect January 1, 1992, substituted "July 1" for "the date specified" after "on" in subdivision (b), and substituted "That" for "The date and time at which" before "the power", and added "if the property remains tax defaulted at 8 a.m. on July 1" after "arises" in subdivision (d). Stats. 1994, Ch. 705, in effect January 1, 1995, substituted "12:01" for "8" after "defaulted at" in subdivision (d).

Note.—See note following Section 2194.

Other matters not required.—The notice need not advise the owner of his rights under statutes permitting an extension of the redemption period. *Mallman v. Kneeben*, 11 Cal.App.2d 484.

3363. Manner of publication. Except as provided in Article 1.8 (commencing with Section 3381) of this chapter, the publication shall be made pursuant to Section 6063 of the Government Code in the county. If no newspaper of general circulation is published in the county, the publication shall be made by posting in three public places in the county.

The cost of publication shall be at no more than the rate fixed by the board of supervisors for other county advertising.

Construction.—It is not necessary that three weeks elapse between the first and the last publication but only that there be a publication in each of three different weeks. The tax collector has no discretion to authorize a fourth publication and the county is not legally bound to pay for the same. *Hanhart v. Madera County*, 76 Cal.App. 290.

Newspaper supplement.—Publication in a separate section of a newspaper containing no other printed matter than that pertaining to the delinquent list, but folded with the section containing the general news and advertising constitutes a compliance with this section. *Penaat v. Terwilliger*, 23 Cal.2d 865.

3364. Copy filed, affidavit. Immediately after the publication is completed, the tax collector shall file with the county recorder a copy of the publication and an attached affidavit. This affidavit is prima facie evidence of the facts stated. The affidavit shall show:

- (a) That it is affixed to a true copy of the publication.
- (b) The manner of publication.
- (c) If the publication was in a newspaper, its name and place of publication and the date of each appearance.
- (d) If not published in a newspaper, the places of posting.

The county recorder may destroy such publications and affidavits that have been on file in his office for more than seven years.

History.—Stats. 1973, Ch. 370, p. 812, in effect January 1, 1974, added the last paragraph.

Note.—See annotations under Section 3374.

3365. Notice to assessee of default and power to sell property. After the first publication of the notice and not less than 21 days nor more than 35 days before July 1, the tax collector shall send by registered mail to the last assessee of the tax-defaulted property at his or her last known address a notice of default and power to sell the property for nonpayment of taxes. The tax collector shall make a reasonable effort to ascertain the address of the last assessee of the tax-defaulted property, including, but not limited to, an examination of the assessment of this property on the rolls beginning with the year of delinquency to and including that of the last equalized roll, an examination of the most recent telephone books in the county in which the tax-defaulted property is located, and an examination of the telephone book covering the area of the last known address of the last assessee.

Any failure of the tax collector to make a reasonable effort to ascertain the address of the last assessee as required by this section shall not affect the validity of any subsequent sale to satisfy the lien of unpaid taxes.

History.—Stats. 1971, p. 2135, in effect March 4, 1972, added the provisions concerning an examination of the telephone books to the second sentence of the first paragraph and added the second paragraph. Stats. 1984, Ch. 988, in effect September 11, 1984, deleted “of intent to deed to the state” after “publication of the notice” added “days” after “21”, substituted “the power to sell for nonpayment of taxes arises” for “of deeding, when tax-sold property is to be deeded” after “date”; substituted “tax-defaulted” for “tax-sold” after “the”; added “or her” after “his”, and substituted “a notice of default . . . taxes” for “either a copy of the publication or a notice of intent to deed the property to the state” after “address” in the first sentence, and substituted “tax-defaulted” for “tax-sold” after each “the” in the second sentence of the first paragraph; and substituted “Any” for “The,” and substituted “any subsequent . . . taxes” for “the deed to the state” after “validity of” in the second paragraph. Stats. 1991, Ch. 532, in effect January 1, 1992, substituted “July 1” for “the date the power to sell for nonpayment of taxes arises” after “before” in the first sentence.

Note.—See note following Section 2194.

Ascertainment of address.—The inquiry of the tax collector in endeavoring to ascertain the address of the delinquent property owner need not extend beyond the examination of the assessment roll from the date of the delinquent assessment to that of the last assessment before the sale. If no address appears and in the absence of evidence to the contrary, it must be assumed, in accordance with the presumption of law that official duty has been regularly performed (Code of Civil Procedure Section 1863, Subdivision 15), that the address was not known to the tax collector, so that the mailing of the notice is not required. *Jacoby v. Wolff*, 198 Cal. 667, cited and followed in *Scott v. Beck*, 204 Cal. 78, and *Tasker v. Nieto*, 108 Cal.App. 135. See also to the same effect with respect to sales of tax-deeded property under former Political Code Section 3897: *Campbell v. Moran*, 161 Cal. 325; *Smith v. Boston*, 161 Cal. 341; *Crouch v. Shafer*, 177 Cal. 154.

Mailing.—It is not required that the postal authorities be instructed to return the notice in the event that it is not delivered. *Bray v. Jones*, 20 Cal.2d 858.

If the notice is returned to the tax collector prior to the sale without having been delivered, due to the fact that the wrapper contained instructions that the parcel should be returned to the sender within 10 days if not claimed, *Numitor Gold Mining Co. v. Katzer*, 83 Cal.App. 161, or if it is mailed within 21 days of the date of sale, *Sawyer v. Berkeley Securities Co.*, 99 Cal.App. 545, the sale is void.

Deed as evidence.—Under Subdivision (e) of Section 3517 the tax collector’s deed is prima facie evidence that the notice was properly mailed. *Usher v. Henkel*, 205 Cal. 413; *Bell v. Brigançe*, 74 Cal.App. 322.

Failure to give notice.—An action based on the failure to give the notice required by this section, whether or not such defect is considered to be a jurisdictional one, is barred by Section 3521 of the Revenue and Taxation Code in a case in which defendant has occupied land under a tax deed from the state for over the period prescribed in that section and the plaintiff has had actual notice of that fact throughout such period. *Tannhauser v. Adams*, 31 Cal.2d 169.

3366. Content of special notice. The mailed notice shall show the same information required for the published notice in Section 3362. A copy of the published notice may be mailed in lieu of a separate notice.

History.—Stats. 1984, Ch. 988, in effect September 11, 1984, deleted “of the deed to the state” after “The mailed notice”, and substituted “show the same . . . separate notice” for former subdivisions (a) through (f), which specified the content of the notice after “shall”.

Note.—See note following Section 2194.

Article 1.7. Published Delinquent List *

- § 3371. Affidavit of default published.
- § 3372. Content of notice.
- § 3373. Manner of publication.
- § 3374. Copy filed, affidavit.
- § 3375. Notification by tax collector.

Note.—See history note under Article 1.

3371. Affidavit of default published. (a) Annually, on or before September 8, the tax collector shall publish the affidavit that the real property on which the taxes, assessments, penalties, and costs had not been fully paid are in default, together with a list of all that real property. However, in any county that mails delinquent notices to the assessee of record before June 30, the tax collector shall publish the affidavit and list of all that real property on or before September 8 of the year following the date of default.

* Article 1.7 was added by Stats. 1967, p. 2343, in effect November 8, 1967.

(b) If the tax collector sends reminder notices prior to the close of the fiscal year and annually sends a redemption notice of prior year due taxes, the delinquent notice described in subdivision (a) may be mailed only for those properties that have been tax-delinquent for three or more years and for which the latest reminder notice or redemption notice was returned to the tax collector as undeliverable.

History.—Stats. 1984, Ch. 988, effective September 11, 1984, substituted “the” for “his” before “affidavit,” and substituted “are in default” for “was sold to the state,” after “paid”. Stats. 1989, Ch. 68, in effect June 28, 1989, substituted “8” for “8th” after “September” and substituted “that” for “such” after “all” in the first sentence and added the second sentence. Stats. 2002, Ch. 723 (AB 1008), in effect January 1, 2003, designated the former first paragraph as subdivision (a) and added subdivision (b).

Note.—See note following Section 2194.

Note.—Stats. 2002, Ch. 723 (AB 1008), see note following Section 3351.

3372. Content of notice. The notice shall show:

(a) The affidavit of tax default.

(b) The fact that the real property may be redeemed by the payment of the amount of defaulted taxes together with those additional penalties and fees as prescribed by law, or that the real property may be redeemed under an installment plan of redemption.

(c) The official who will furnish all information concerning redemption.

(d) The following information relating to each assessment of tax-defaulted property:

(1) The name of the assessee, and where there is more than one valuation the name of the assessee need be listed only once. For the purposes of this section, the name of the assessee may be the name of the assessee as shown on the current roll.

(2) The description of the property.

(3) The total amount which was originally declared in default.

This information required to be published is the “published delinquent list.” If any tax-defaulted property is redeemed, the information relating to the property may be omitted from any publication.

History.—Stats. 1982, Ch. 694, in effect January 1, 1983, operative July 1, 1983, added paragraph (4) to subdivision (d). Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “tax default” for “sale to the state.” after “of” in subdivision (a), substituted “defaulted taxes” for “sold taxes.” after “of” in subdivisions (b) and (d), and substituted “which was originally declared in default” for “for which the property was sold” after “amount” in paragraph 4 of subdivision (d). Stats. 1989, Ch. 68, in effect June 28, 1989, added “tax-defaulted” after “If any”, deleted “on the published delinquent list” before “is redeemed”, deleted “subsequent” after “omitted from any”, and substituted “publication” for “publications” in the second sentence of the second paragraph. Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, substituted “those” for “such” after “together with” in the first sentence of subdivision (b), and deleted former paragraph (4) of subdivision (d) which provided that the street address of the property, if any, shown on the county assessment records be provided on the notice.

Note.—See note following Section 2194.

Errors invalidating proceedings.—The following errors in the delinquent list have been held to render tax sales void under prior statutory provisions: Overstatement of fifty cents in the amount due, even though the sale was actually made for the correct amount (*Warden v. Broome*, 9 Cal.App. 1972), the omission of the word “penalties” in stating the amount due (*Miller v. McKenna*, 23 Cal.2d 774; *Fleishman v. Davis*, 128 Cal.App. 174); (cf. *Bray v. Jones*, 20 Cal.2d 858), stating in one sum the amount due for several parcels separately assessed to a single owner (*Gottstein v. Kelly*, 206 Cal. 742), errors and ambiguities in stating the time or place of sale (*Beck v. Wilson*, 49 Cal.App. 281; *Numitor Gold Mining Co. v. Katzer*, 83 Cal.App. 161); or in describing the property (*Cordano v. Kelsey*, 28 Cal.App. 9); omission of the name of the owner, *Ellis v. Witmer*, 134 Cal. 249. A mistake in spelling the owner’s name is not material, in view of Section 613 (*Schainman v. All Persons*, 96 Cal.App. 753), nor are errors in an explanatory note appended to the delinquent list. *In re Rogers*, 91 Cal.App. 726. See also the 1943 Validating Act (Stats. 1943, p. 1993), *infra*, and annotations thereto.

Abbreviations.—A condensed description in a delinquent list which consists only of the use of common abbreviations is permissible if thereby the property may be easily known. *Rollins v. Woodman*, 117 Cal. 516. In the publication of the delinquent list the employment of figures to represent dollars and cents without having prefixed thereto the dollar mark

is sufficient when the meaning of the figures is fully explained in the publication. *Fox v. Wright*, 152 Cal. 59. The delinquent list with the word “amount” and under it “400” clearly gave notice to any intelligent person that dollars were meant, and the absence of the dollar mark does not invalidate the tax sale. *Carter v. Osborn*, 150 Cal. 620.

Description of property.—The object of requiring the description of the property in the delinquent list is to notify the owner of the land that the taxes thereon are delinquent, and if the description is sufficient to give this notice it must be held a sufficient compliance with the statute. *Davis v. Pacific Improvement Co.*, 137 Cal. 245; *Numitor Gold Mining Co. v. Katzer*, 83 Cal.App. 161.

Property included in notice of sale.—If the taxes for the years subsequent to the sale to the state have been paid, property covered by the notice of sale need not be included in the delinquent list. *Scott v. Beck*, 204 Cal. 78.

3373. Manner of publication. Except as provided in Article 1.8 (commencing with Section 3381), the publication shall be made pursuant to Section 6063 of the Government Code in the county. If no newspaper of general circulation is published in the county, the publication shall be made by posting in three public places in the county.

The cost of publication shall be at no more than the rate fixed by the board of supervisors for other county advertising.

Construction.—It is not necessary that three weeks elapse between the first and the last publication but only that there be a publication in each of three different weeks. The tax collector has no discretion to authorize a fourth publication and the county is not legally bound to pay for the same. *Hanhart v. Madera County*, 76 Cal.App. 290.

Newspaper supplement.—Publication in a separate section of a newspaper containing no other printed matter than that pertaining to the delinquent list, but folded with the section containing the general news and advertising constitutes a compliance with this section. *Penaat v. Terwilliger*, 23 Cal.2d 865.

3374. Copy filed, affidavit. Immediately after the publication is completed, the tax collector shall file with the county recorder a copy of the publication and an attached affidavit. This affidavit is prima facie evidence of the facts stated. The affidavit shall show:

- (a) That it is affixed to a true copy of the publication.
- (b) The manner of publication.
- (c) If the publication was in a newspaper, its name and place of publication and the date of each appearance.
- (d) If not published in a newspaper, the places of posting.

The county recorder may destroy such publications and affidavits that have been on file in the recorder’s office for more than seven years.

History.—Stats. 1975, Ch. 155, p. 286, in effect January 1, 1976, added the second paragraph.

Effect of tax deed.—Under Section 3518 a tax deed is conclusive evidence that the affidavit and copy of the published delinquent list were properly filed. *Stuart v. Chapman*, 87 Cal.App. 552, 555; *Haaran v. High*, 97 Cal. 445; *Penaat v. Guasco*, 84 Cal.App.2d 445, 452.

Loss of delinquent list.—A copy of the delinquent list, duly verified and filed as provided by this section, establishes the original in the absence of evidence to the contrary, and the loss of the original can not affect the rights of the purchaser at the tax sale. *Davis v. Pacific Improvement Co.*, 137 Cal. 245, 249.

3375. Notification by tax collector. The tax collector shall notify the Controller, in such manner as the Controller shall direct, of all property subject to a “Notice of Lien for Postponed Property Taxes” recorded pursuant to Section 16182 of the Government Code, which:

- (a) Becomes tax defaulted subsequent to the date of entry on the secured roll of the information required by paragraph (1) of subdivision (a) of Section 2514; or
- (b) Becomes subject to those collection procedures that are available for collection of delinquent taxes or assessments on the unsecured roll.

History.—Added by Stats. 1977, Ch. 1242, in effect October 1, 1977. Stats. 1978, Ch. 576, in effect August 31, 1978, in the first paragraph after the word “which” added the “;” and designated the remaining portion of the old sentence as subdivision (a) and also added the “;” and the word “or” to the end of subdivision (a). Also added subdivision (b). Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “Becomes tax defaulted” for “Is sold to the state for unpaid taxes” before “subsequent” in subdivision (a).

Note.—See note following Section 2194.

Article 1.8. Alternative Method of Publication *

- § 3381. Alternate method of publication.
- § 3382. Contracts for publication; rate.
- § 3383. Contents of contracts.
- § 3384. Notice by mail.
- § 3385. Mailing by whom.

3381. Alternate method of publication. In each county where the tax collector or, if the county is a chartered county, the board of supervisors determines that the public interest, convenience and necessity require the local publication of the delinquent list required by Section 3371, or the published notice of power and intent to sell required by Section 3361, in order to afford adequate notice, all items required to be published shall be published as provided in this article.

After the determination, the tax collector or, if the county is a chartered county, the board of supervisors shall divide and distribute the items to be published and cause the same to be published either within (a) the municipal corporations, (b) the elementary, high school, or junior college districts, (c) the supervisorial districts, (d) judicial districts, (e) tax districts, areas included in map books, or tax code areas, or (f) by any annexation or annexations of same, or any combination of same, or any combination of those districts, annexations, areas included in map books, and code areas, within the county as they shall determine most likely to afford adequate notice to owners of the property.

Except as provided in this article, the publication shall be in the same manner as provided in Article 1.7 (commencing with Section 3371).

The publication provided for in this article shall be made once a week for two successive weeks in a newspaper or newspapers of general circulation. The publication shall be made in a newspaper published not less frequently than once a week.

History.—Added by Stats. 1967, Ch. 894, effective November 8, 1967. Stats. 1985, Ch. 316, effective January 1, 1986, substituted “required by Section 3371 . . . required by Section 3361” for “, or the list of properties to be deeded to the state,” after “list” in first paragraph; substituted “such” for “the” after “After” and “such” for “those” after “combination of” in second paragraph; added “(commencing with Section 3371)” after “Article 1.7” in third paragraph, substituted “The” for “such” after “circulation.” in second sentence of fourth paragraph.

Construction.—Publication of a delinquent list covering property within a city need not be made in a newspaper “printed” and “published” in that city, and such publications circulated in the geographical areas in which the property covered by the list was located was valid, although the newspaper itself was printed and published in a city located in a different geographical area. *Western States Newspapers, Inc. v. Gehringer*, 203 Cal.App.2d 793.

3382. Contract for publication; rate. Annually, the board of supervisors shall let the contracts for publication of the published delinquent list, or the published notice of power and intent to sell, and shall determine the rate to be paid for those publications or any portions thereof.

* Article 1.8 was added by Stats. 1967, p. 2344, in effect November 8, 1967.

The publication rate shall be based on a common denominator of measurement for all newspapers and may be graduated according to circulation.

History.—Added by Stats. 1967, Ch. 894, effective November 8, 1967. Stats. 1985, Ch. 316, effective January 1, 1986, substituted “published notice of power and intent to sell” for “list of properties to be deeded to the state”, after “list, or the”; “those publications” for “the publication of such delinquent list”, after “paid for”; and “portions” for “portion”, after “or any” in first paragraph.

3383. Contents of contracts. The contracts for the publications shall include the publication of the proper portion of the published list and all other items relating to that portion of the published list required by law to be published.

3384. Notice by mail. The board of supervisors may provide by order for mailing to each assessee on the published delinquent list a copy of the items delinquent assessed to him and, if so ordered, the copy shall be mailed to the assessee at his address as shown on the roll. This section gives no one any right to receive the copy of items delinquent, and neither the county nor any office or employee is liable for failure of the assessee to receive the copy or for any mistake in connection with the mailing.

3385. Mailing by whom. In ordering mailing of a copy of items delinquent, the board of supervisors may do either of the following:

(a) Authorize the tax collector to perform the mailing.

(b) Include, or authorize the inclusion of, the mailing as an item in the contracts for publication of the published delinquent list.

CHAPTER 2. SALE BY OPERATION OF LAW

Article 1. General Provisions. §§ 3436-3445.

Article 2. Alternative Provisions. §§ 3446-3448. [Repealed.]

Article 1. General Provisions †

- § 3436. Declaration of default; time.
- § 3437. Payment by owner prior to declaration of default.
- § 3438. Discovery of error.
- § 3439. Entry of amount declared in default.
- § 3440. Notice to Controller. [Repealed.]
- § 3441. Prohibition of waste, etc.
- § 3442. Entry on current roll.
- § 3443. Entry on assessor's records.
- § 3443.5. Entry on assessor's records: machine-prepared roll.
- § 3444. Void declaration of default.
- § 3445. Redemption. [Repealed.]

3436. Declaration of default; time. At 12:01 a.m. on July 1, the taxes, assessments, penalties, and costs on real property except tax-defaulted property and possessory interests, which have not been paid shall by operation of law be declared in default.

History.—Stats. 1963, p. 3079, in effect September 20, 1963, added “On or before June 30 and” before “not” at the beginning of the first sentence. Stats. 1967, p. 2345, in effect November 8, 1967, deleted “and not less than 21 nor more than 28 days after the first publication of the published delinquent list” after “June 30”; and added “of the notice of intent to sell to the state” after “publication” in the first sentence. Stats 1984, Ch. 988, in effect September 11, 1984, substituted “notice of impending default” . . . “declared in default” for “notice of intent to sell to the state, the real property on which the taxes, assessments, penalties, and costs have not been fully paid, except tax-sold property and possessory

† Article 1 heading added by Stats. 1967, p. 3190, in effect November 8, 1967.

interests, shall by operation of law and the declaration of the tax collector be sold to the state" after "publication of the" in the first sentence, and deleted the former second sentence which provided that "The sale shall be in the tax collector's office". Stats. 1992, Ch. 523, in effect January 1, 1993, substituted "At 12:01 . . . July 1" for "On or before June 30, at the time fixed in the publication of the notice of impending default" at the beginning of the paragraph, and deleted "and the declaration of the tax collector" after "of law".

Time.—If the first publication of the delinquent list is more than 28 days prior to the date fixed for the sale, the tax proceedings are void. *Bernhard v. Wall*, 184 Cal. 612. Cf. *Smith v. City of Los Angeles*, 158 Cal. 702, holding immaterial, in view of Former Political Code Section 3885 (now Revenue and Taxation Code Section 24), the fact that the delinquent list was first published one day after the required date. See Section 3365.

Amount.—A sale for any amount in excess of that which is lawfully chargeable is void. *Hall v. Park Bank of Los Angeles*, 165 Cal. 356; *Rimmer v. Hotchkiss*, 162 Cal. 385; *Warden v. Gries*, 120 Cal.App. 187. Although several cases have held that an excess of less than one cent in the amount of a penalty will not render a sale void (*Bell v. Fee Title Co.*, 69 Cal.App. 437; *Jacoby v. Wolff*, 198 Cal. 667, 684; *Gottstein v. Kelly*, 206 Cal. 742, 745; *Schainman v. All Persons*, 96 Cal.App. 753), they were all decided prior to the adoption in 1939 of the provision now contained in Section 2623.5.

Property included.—A sale of property which includes more land than was assessed is void. See *Los Angeles Olive Growers' Assn. v. Pozzi*, 167 Cal. 454.

A single sale may not be made of distinct items of property. Each parcel must be sold for the exact amount which is a lien upon it. See *Knox v. Higby*, 76 Cal. 264. Five adjoining lots over all of which a building extends should be treated, however, as a unit for purposes of taxation. *Cooper v. Miller*, 113 Cal. 238.

Effect of sale.—The only practical effect of a sale under this section is to start running the five-year period within which redemption can be effected. During this period the legal title to the property continues in the taxpayer, subject to the lien in favor of the state created by the assessment and levy. *Crocker v. Scott*, 149 Cal. 575; *In re Sieck*, 46 Cal.App. 363.

Note.—See note following Section 2194.

3437. Payment by owner prior to declaration of default. The amount due on any property may be paid until the close of business on June 30 if it was separately valued on the secured roll. If June 30 falls on a Saturday, Sunday, or legal holiday, and payment is received by the close of business on the next business day, redemption penalties shall not attach. If the board of supervisors, by adoption of an ordinance or resolution, closes the county's offices for business prior to the time of delinquency on the "next business day" or for that whole day, that day shall be considered a legal holiday for purposes of this section. Section 2512 shall apply to remittances made by mail.

History.—Stats. 1943, p. 1936, in effect August 4, 1943, added last clause. Stats. 1955, p. 839, in effect September 7, 1955, rewrote section to eliminate provision specifying payment by "the owner or person in possession" of the property. Stats. 1967, p. 22346, in effect November 8, 1967, deleted "in the published delinquent list" after "property". Stats. 1984, Ch. 988 in effect September 11, 1984, substituted "the declaration of default" for "sale" after "time of". Stats. 1992, Ch. 523, in effect January 1, 1993, substituted "close . . . 30" for "time of the declaration of default" after "until the"; and added "If June . . . attach." as the second sentence. Stats. 1994, Ch. 705, in effect January 1, 1995, added "Sunday," after "Saturday" in the second sentence, and added the third sentence. Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000, added the fourth sentence.

Note.—See note following Section 2194.

3438. Discovery of error. If the tax collector discovers before the declaration that because of any error the tax on a parcel of real property should not be declared in default, he or she shall not declare it in default and the board of supervisors shall cause the assessor to enter the uncollected taxes on the next roll, to be collected like other taxes on that roll.

History.—Stats. 1984, Ch. 988, in effect September 11, 1984, substituted "declaration" for "sale" after "before the", and substituted "tax on a parcel . . . declare it in default" for "property should not be sold, he shall not mark it sold to the state" after "error the".

Note.—See note following Section 2194.

3439. Entry of amount declared in default. In appropriate columns on the delinquent roll, or the secured roll if the delinquent roll has been dispensed with, opposite each parcel separately valued the taxes on which have been declared in default, the tax collector shall enter "tax defaulted," the date of declaration, and the total amount declared to be in default.

History.—Stats. 1943, p. 1936, in effect August 4, 1943, substituted “delinquent roll” for “delinquent list,” and otherwise reworded section. Stats. 1949, p. 465, in effect October 1, 1949, added clause relating to secured roll and deleted “on the delinquent roll” following “parcel separately valued.” Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “the taxes on which have been declared in default” for “and sold” after “valued”, substituted “tax-defaulted,” the date of sale” for “sold to the State,” the date of sale” after “enter”, and substituted “declared to be in default” for “for which the property was sold” after “amount”.

Note.—See note following Section 2194.

3440. Notice to Controller. [Repealed by Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000.]

3441. Prohibition of waste, etc. Every person who does any act tending permanently to impair the value of tax-defaulted property is guilty of a misdemeanor and is liable for any damages sustained by the county or public agency because of his or her act. Those acts include, but are not limited to, the removal, destruction, or cutting of any improvements or timber. On request of the tax collector of the county where any part of the property is located, the district attorney of the same county shall:

- (a) Prosecute for the commission of the misdemeanor.
- (b) In the name of the people, sue for damages sustained by the county.

History.—Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “tax-defaulted property” for “tax-sold property or tax-deeded property” after “value of”, substituted “county or public agency” for “State,” after “by the”, and added “or her” after “his” in the first sentence; substituted “Those” for “Such” before “Acts” in the second sentence; and substituted tax collector of the county . . . county shall:” for “Attorney General or the Controller, the District Attorney of the County where any part of the property is located shall: after “of the” in the third sentence; and substituted “county” for “State” after “by the” in subsection (b) thereof.

Note.—See note following Section 2194.

Removal of timber.—The State was allowed to recover damages for timber removed from tax-deeded land prior to redemption. *People v. Lucas*, 55 Cal.2d 564.

3442. Entry on current roll. Within 30 days after declaration of default, the tax collector shall furnish the auditor with a list of all tax-defaulted property. The auditor shall enter on the current roll immediately after the description of the property the fact and date of declaration of default.

History.—Stats. 1949, p. 473, in effect October 1, 1949, deleted “printed” preceding “list” in first sentence and substituted “redemption officer” for “auditor” in first and second sentences. Stats. 1953, p. 2256, in effect September 9, 1953, added third sentence. Stats. 1974, Ch. 1101, p. 2342, in effect January 1, 1975, substituted “auditor” for “redemption officer” in the first and second sentences, and deleted the former third sentence. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “declaration of default” for “sale by operation of law” after “after the”, and substituted “tax-defaulted property” for “the property sold” after “all” in the first sentence; and substituted “declaration of default” for “sale” after “date of” in the second sentence.

Note.—See note following Section 2194.

Redemptions.—Compliance with this section by the tax collector gives the auditor the information which he is required to furnish redemptioners under Section 4105.1 and 4105.2. *Jones v. Sturzenberg*, 59 Cal.App. 350.

3443. Entry on assessor’s records. The tax collector shall transmit the list of property to the assessor who shall enter on his or her records the fact and date of the declaration of default.

History.—Stats. 1953, p. 2101, in effect September 9, 1953, substituted “redemption officer” for “auditor.” Stats. 1974, Ch. 1101, p. 2342, in effect January 1, 1975, substituted “tax collector” for “redemption officer”. Stats. 1984, Ch. 988, in effect September 11, 1984, deleted “sold” after “list of property,” added “or her” after “his” and substituted “declaration of default” for “sale” after “of the”.

Note.—See note following Section 2194.

Omission of date immaterial.—The omission of the date of sale does not render the proceedings invalid. The mere entry of the words “sold to the State,” while not a strict compliance with this section, is sufficient to put both the fiscal officers and the property owner on notice. *Fox v. Townsend*, 152 Cal. 51.

3443.5. Entry on assessor's records: machine-prepared roll. In lieu of the procedure specified in Section 3443, where a machine-prepared roll is used, the fact and date of the declaration of default may be entered upon the reproduced roll.

History.—Added by Stats. 1968, p. 664, in effect November 13, 1968. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “the declaration of default” for “sale” after “of the”.

Note.—See note following Section 2194.

3444. Void declaration of default. If the original declaration of default by operation of law is ever canceled or held void, the property shall be treated for all purposes as if in default in the next subsequent year for which it would have been validly declared in default but for the previous declaration of default.

History.—Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “declaration of default” for “sale to the State” after “original”, substituted “in default” for “sold to the State” after “as if”, and substituted “declared in default . . . default” for “sold to the state if it had not been tax-sold property or tax-deeded property” after “validly”.

Note.—See note following Section 2194

3445. Redemption. [Repealed by Stats. 1982, Ch. 1465, in effect January 1, 1983.]

Article 2. Alternative Provisions *

- § 3446. Alternative procedure where control system permits. [Repealed.]
- § 3447. Procedures depending on filing or not of detailed statement. [Repealed.]
- § 3448. Control system inoperative or inadequate. [Repealed.]

3446. Alternative procedure where control system permits. [Repealed by Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999.]

3447. Procedures depending on filing or not of detailed statement. [Repealed by Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999.]

3448. Control system inoperative or inadequate. [Repealed by Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999.]

CHAPTER 2.2. MEDIUM OF PAYMENT

- § 3450. “Negotiable paper.”
- § 3451. Discretionary acceptance.
- § 3452. Acceptance as payment.
- § 3453. Deposit.
- § 3454. Refund on nonpayment.
- § 3455. Cancellation on nonpayment.
- § 3456. Payment by negotiable paper.
- § 3457. Refund of money paid.

3450. “Negotiable paper.” As used in this chapter and in Sections 3691 and 3693 of this code, “negotiable paper” means bank checks and drafts and express and post-office money orders.

History.—Added by Stats. 1945, p. 1310, in effect September 15, 1945. Stats. 1957, p. 768, in effect September 11, 1957, deleted reference to Sections 3355 and 3476.

3451. Discretionary acceptance. The tax collector may in his or her discretion accept negotiable paper in payment for tax-defaulted property and tax-defaulted property sold at public auction.

* Article 2 added by Stats. 1967, p. 3190, in effect November 8, 1967.

History.—Added by Stats. 1945, p. 1310, in effect September 15, 1945. Stats. 1984, Ch. 988, in effect September 11, 1984, added “or her” after “his,” and substituted “tax-defaulted property” for “tax-sold property” and for “tax-deeded property.”

Note.—See note following Section 2194.

3452. Acceptance as payment. The acceptance of negotiable paper constitutes payment for tax-defaulted property and tax-defaulted property sold at public auction as of the date of acceptance when, but not before, the negotiable paper is duly paid.

When negotiable paper is so accepted, the deed to the property so purchased shall not be delivered until that negotiable paper is duly paid.

History.—Added by Stats. 1945, p. 1310, in effect September 15, 1945. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “tax-defaulted” for “tax-sold” and for “tax-deeded.” in the first paragraph, and deleted “unless and” before “until,” and substituted “that” for “such” in the second paragraph.

Note.—See note following Section 2194.

3453. Deposit. The tax collector may deposit negotiable paper accepted by him daily with a bank for collection and receive from the bank cashier’s checks in an amount equal to the total deposits. The cashier’s checks shall be deposited in the county treasury like cash received for the same purpose.

History.—Added by Stats. 1945, p. 1310, in effect September 15, 1945.

3454. Refund on nonpayment. If any negotiable paper is returned unpaid to the bank with which it was deposited, the bank shall return it to the tax collector and, if its amount has been included in any cashier’s check given by the bank, the bank is entitled to a refund in the amount of the unpaid negotiable paper.

History.—Added by Stats. 1945, p. 1310, in effect September 15, 1945.

3455. Cancellation on nonpayment. If any negotiable paper is not paid on due presentation for any reason, any record of payment made on any official record because of its acceptance shall be canceled, and the bid upon which the negotiable paper was accepted shall be voided as if no bid had been made, and the original owner’s right of redemption is revived.

History.—Added by Stats. 1945, p. 1310, in effect September 15, 1945. Stats. 1988, Ch. 830, in effect January 1, 1989, substituted “the” for “such” before “negotiable” and deleted “, unless such right of redemption had already been terminated prior to the receipt of such bid” after “revived”.

3456. Claim for advertising costs on nonpayment. If the payment accepted by the tax collector was wholly in negotiable paper which was not paid on due presentation, the county shall have a claim against the person who attempted payment by the negotiable paper for the cost of the sale. The tax collector shall forthwith notify by registered mail the person so attempting payment with advice that his or her bid has been voided and state the amount of the county’s claim.

History.—Added by Stats. 1945, p. 1310, in effect September 15, 1945. Stats. 1983, Ch. 1224, in effect January 1, 1984, substituted “the” for “advertising such” before “sale” in the first sentence; and substituted “the” for “such” after “return”, added “or her” after “his”, and substituted “the amount of the county’s claim” for “as to the amount of such county claim against him” after “and” in the second sentence. Stats. 1986, Ch. 1420, effective January 1, 1987, substituted “notify” for “return the negotiable paper” after “forthwith”, deleted “to” after “registered mail”, and added “state” after “voided and” in the second sentence.

3457. Refund of money paid. If the payment accepted by the tax collector was in part in negotiable paper which was not paid on due presentation, and in part in lawful money of the United States or part in negotiable paper which was duly paid, the tax collector shall deduct therefrom the cost of advertising such sale and forthwith refund the balance of such sum, together with the unpaid negotiable paper, by registered mail to the person so attempting payment, with advice that his bid has been voided.

History.—Added by Stats. 1945, p. 1310, in effect September 15, 1945.

CHAPTER 4. DEED TO STATE

[Repealed by Stats. 1990, Ch. 216, in effect January 1, 1991.]

- § 3510. “Taxes” defined. [Repealed.]
- § 3511. Deed to state. [Repealed.]
- § 3512. Forms. [Repealed.]
- § 3512.1. Assessor to provide description to tax collector. [Renumbered.]
- § 3513. Contents of deed. [Repealed.]
- § 3514. Recording. [Renumbered.]
- § 3514.5. Use of duplicate deed. [Repealed.]
- § 3515. Transmission of deed. [Repealed.]
- § 3516. Filing by Controller. [Renumbered.]
- § 3517. Deed as prima facie evidence. [Repealed.]
- § 3517. Parity of deeds. [Renumbered.]
- § 3518. Conclusive evidence. [Repealed.]
- § 3519. Parity of deeds. [Renumbered.]
- § 3520. Effect on “tax liens.” [Repealed.]
- § 3521. Statute of limitations. [Repealed.]
- § 3522. Defense based on invalid deed, etc. [Repealed.]

3510. “Taxes” defined. [Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3511. Deed to state. [Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3512. Forms. [Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3512.1. Assessor to provide description to tax collector. [Amended and renumbered as Section 3691.3 by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3513. Contents of deed. [Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3514. Recording. [Amended and renumbered as Section 3691.4 by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3514.5. Use of duplicate deed. [Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3515. Transmission of deed. [Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3516. Filing by Controller. [Amended and renumbered as Section 3691.5 by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3517. **Deed as prima facie evidence.** [Repealed by Stats. 1984, Ch. 998, in effect September 11, 1984.]

3517. **Parity of deeds.** [Amended and renumbered as Section 3713 by Stats. 1985, Ch. 316, effective January 1, 1986.]

3518. **Conclusive evidence.** [Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3519. **Parity of deeds.** [Amended and renumbered as Section 3517 by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3520. **Effect on “tax liens.”** [Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

3521. **Statute of limitations.** [Repealed by Stats. 1988, Ch. 830, in effect January 1, 1989.]

3522. **Defense based on invalid deed, etc.** [Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

CHAPTER 4.3. CLASSIFICATION OF TAX-DEEDED PROPERTY

[Repealed by Stats. 1981, Ch. 401, in effect January 1, 1982.]

- § 3534. Advisory Committee on Tax-Deeded Property. [Repealed.]
- § 3535. Duties. [Repealed.]
- § 3536. Chairman. [Repealed.]
- § 3537. Secretary. [Repealed.]
- § 3538. Personnel. [Repealed.]
- § 3539. “Administering agency.” [Repealed.]
- § 3540. “Classifying agency.” [Repealed.]
- § 3541. Method of classification. [Repealed.]
- § 3542. Sale and redemption pending classification. [Repealed.]
- § 3543. Reclassification. [Repealed.]
- § 3544. Application by governmental agencies. [Repealed.]
- § 3545. Classification for public use limited. [Repealed.]
- § 3546. Waste land. [Repealed.]
- § 3547. Agreement with administering agency. [Repealed.]
- § 3548. Agreement to be submitted to Controller. [Repealed.]
- § 3549. Effect of approval. [Repealed.]
- § 3550. Disposition of copies. [Repealed.]
- § 3551. Notice. [Repealed.]
- § 3552. Rights of other taxing agencies. [Repealed.]
- § 3552.2. Notice when right of redemption not terminated. [Repealed.]
- § 3552.4. Contents of notice. [Repealed.]
- § 3552.6. Mailing of notice. [Repealed.]
- § 3552.8. Cost of notice. [Repealed.]
- § 3552.10. Notice to be filed with tax collector. [Repealed.]
- § 3552.12. Effective date of agreement. [Repealed.]
- § 3552.14. Effect of redemption. [Repealed.]
- § 3552.16. Termination of right of redemption. Execution of deed. [Repealed.]
- § 3552.18. Acknowledgment of deed. [Repealed.]
- § 3552.20. Contents of deed. [Repealed.]
- § 3552.22. Deed as evidence. [Repealed.]
- § 3552.24. Effect of deed. [Repealed.]
- § 3552.26. Payments. [Repealed.]
- § 3552.28. Reports by tax collector. [Repealed.]
- § 3552.32. Notations on rolls. [Repealed.]
- § 3552.34. Contesting validity. [Repealed.]

- § 3552.36. Defense. [Repealed.]
- § 3552.38. Quieting title against State. [Repealed.]
- § 3552.42. Refund of purchase price. [Repealed.]
- § 3553. Purchase of rights of other taxing agencies. [Repealed.]
- § 3554. Reclassification of waste land. [Repealed.]
- § 3555. Information to be furnished. [Repealed.]
- § 3556. Expenses of administration. [Repealed.]

CHAPTER 5. QUIETING TITLE UNDER TAX DEED

[Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

- § 3591. “Redemptioneer.” [Repealed.]
- § 3592. “Taxes.” [Repealed.]
- § 3593. “District Attorney.” [Repealed.]
- § 3594. Quieting title by State. [Repealed.]
- § 3595. Bringing action. [Repealed.]
- § 3596. Property included. [Repealed.]
- § 3597. Complaint. [Repealed.]
- § 3598. Affidavit re adverse claimants. [Repealed.]
- § 3599. Summons. [Repealed.]
- § 3600. Posting summons; notice of action. [Repealed.]
- § 3601. Service of summons. [Repealed.]
- § 3602. Service by publication. [Repealed.]
- § 3602.5. Service on taxing agency. [Repealed.]
- § 3603. Proof required. [Repealed.]
- § 3604. Court’s determination. [Repealed.]
- § 3605. Decree quieting title. [Repealed.]
- § 3606. Correction of errors. [Repealed.]
- § 3607. Defective notice. [Repealed.]
- § 3608. Amount due. [Repealed.]
- § 3609. Interlocutory decree. [Repealed.]
- § 3610. Payment. [Repealed.]
- § 3611. Distribution. [Repealed.]
- § 3612. Decree voiding sale. [Repealed.]
- § 3613. Decree quieting title. [Repealed.]
- § 3614.5. Right of redemption terminated. [Repealed.]
- § 3615. Other property affected. [Repealed.]
- § 3616. Corrected redemptions. [Repealed.]
- § 3617. Power of Controller. [Repealed.]

CHAPTER 5.7. TAXPAYER’S ACTION TO CONTEST THE VALIDITY OF TAX SALE OR TAX DEED

[Repealed by Stats. 1985, Ch. 316, effective January 1, 1986.]

- § 3618. “Taxes” defined. [Repealed.]
- § 3619. “District attorney” defined. [Repealed.]
- § 3620. Contest authorized. [Repealed.]
- § 3621. Service. [Repealed.]
- § 3622. Joinder of actions. [Repealed.]
- § 3623. Parties defendant. [Repealed.]
- § 3624. Summons. [Repealed.]
- § 3625. Proof of facts. [Repealed.]
- § 3626. Trial. [Repealed.]
- § 3627. Interlocutory decree. [Repealed.]
- § 3628. Corrections. [Repealed.]
- § 3629. Same: Notices. [Repealed.]
- § 3630. Same: Computation of taxes. [Repealed.]
- § 3631. Same: Interlocutory decree. [Repealed.]
- § 3632. Payment of taxes by plaintiff. [Repealed.]
- § 3633. Distribution of payments. [Repealed.]

- § 3634. Final decree after payment. [Repealed.]
- § 3635. Final decree when payment not made. [Repealed.]
- § 3636. Restriction on decrees. [Repealed.]
- § 3638. Dismissal for failure to bring action to trial. [Repealed.]

CHAPTER 6. POWER OF STATE TO RENT TAX-DEEDED PROPERTY

[Repealed by Stats. 1984, Ch. 988, in effect September 11, 1984.]

- § 3651. Renting, etc., by Controller. [Repealed.]
- § 3652. Accounting. [Repealed.]
- § 3653. Obtaining possession. [Repealed.]
- § 3653.1. Owner responsible for any personalty. [Repealed.]
- § 3654. Unlawful detainer, etc. [Repealed.]
- § 3655. Controller's powers. [Repealed.]
- § 3656. Cancellation of leases. [Repealed.]
- § 3657. Public nuisance. [Repealed.]
- § 3658. Appraisal. [Repealed.]
- § 3659. Receipts to be remitted to counties. [Repealed.]
- § 3659.3. Share claims. [Repealed.]
- § 3659.5. Pro rata distribution. [Repealed.]
- § 3659.6. Distribution by agreement. [Repealed.]
- § 3659.7. Clerical expense. [Repealed.]
- § 3659.9. Uncollectible amounts. [Repealed.]
- § 3660. Redemption Tax Fund abolished. [Repealed.]

CHAPTER 7. SALE TO PRIVATE PARTIES AFTER DEED TO STATE

- § 3691. Power to sell.
- § 3691.1. Notification that parcel is subject to sale.
- § 3691.2. Contents of notice.
- § 3691.3. Assessor to provide description to tax collector.
- § 3691.4. Recording.
- § 3691.5. Filing by tax collector.
- § 3691.6. Controller request for report.
- § 3692. Sale within two years.
- § 3693. Sale at public auction; cash sale.
- § 3693.1. Cash or credit sale.
- § 3694. Approval required.
- § 3695. Other taxing agencies' consent.
- § 3695.3. Meaning of "assessments."
- § 3695.4. Property needed for public use.
- § 3695.5. Nonprofit organization purchasing property.
- § 3696. Sale on application. [Repealed.]
- § 3696.5. Return of deposit. [Repealed.]
- § 3697. Sale without application. [Repealed.]
- § 3698. Notice to supervisors.
- § 3698.5. Minimum price.
- § 3698.7. Minimum price for property with welfare exemption.
- § 3698.8. Removal from sale.
- § 3699. Supervisors' approval. [Repealed.]
- § 3700. Notices to agencies.
- § 3700.5. Notice to Controller.
- § 3701. Notice to assessee. [Repealed]
- § 3701. Notice to assessee.
- § 3701.5. Cancellation of sale. [Repealed.]
- § 3702. Notice of sale to be published.
- § 3703. Notice by posting.
- § 3704. Contents of notice.
- § 3704.5. Additional notice of sale.
- § 3704.7. Contact in person.
- § 3705. Bid by taxing agency.

- § 3706. Sale.
- § 3706.1. Postponement of sale.
- § 3707. Redemption right.
- § 3708. Deed to purchaser.
- § 3708.1. Recordation of deed.
- § 3708.5. Corrected deed.
- § 3709. Acknowledgment.
- § 3710. Contents of deed.
- § 3711. Deed as evidence.
- § 3712. Title conveyed.
- § 3713. Parity of deeds.
- § 3715. Sale to be reported to Controller. [Repealed.]
- § 3715. Sale to be reported to Controller. [Repealed.]
- § 3716. Report to assessor.
- § 3717.5. Notations on roll.
- § 3718. Deposit of proceeds; reports.
- § 3719. Delinquent tax sale trust fund.
- § 3720. Report to other taxing agencies.
- § 3721. Share claims.
- § 3722. Presentation.
- § 3723. Disputed claims.
- § 3724. Distribution.
- § 3725. Contesting validity.
- § 3726. Defense.
- § 3727. Quieting title.
- § 3728. Payments by former owner.
- § 3728.1. New tax deed to be issued on nonpayment.
- § 3729. Refunds from county.
- § 3730. Other refunds. [Repealed.]
- § 3730.1. Statute of limitations. [Repealed.]
- § 3731. Refunds following quitclaim deed. [Repealed.]
- § 3731. Rescinding of sale.
- § 3731.1. Resolution by board of supervisors to authorize action by county officer.

3691. Power to sell. (a) (1) Five years or more after the property has become tax-defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.

(2) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(b) (1) (A) Three years or more after the property has become tax-defaulted and subject to a nuisance abatement lien, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of

parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale.

(B) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(2) Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(3) Before the tax collector sells vacant residential developed property pursuant to this subdivision, notice of the sale shall be given in the manner specified by Section 3704.7.

History.—Amended by Stats. 1941, p. 138 (First Extra Session 1940), in effect June 1, 1941. Repealed and reenacted by Stats. 1941, p. 1430, operative June 1, 1941, which added to original provisions the reference to Sections 3550.5 and 3554. Stats. 1943, p. 1988, in effect August 4, 1943, added second sentence. Stats. 1945, p. 2193, in effect September 15, 1945, added provision permitting acceptance of negotiable paper, and revised second clause of first sentence. Stats. 1947, p. 2024, in effect September 19, 1947, amended first paragraph by adding provision that boundaries of parcels in which property deeded to state may be disregarded, and added second paragraph. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted the first sentence for former first sentence which provided "The tax collector may sell for lawful money of the United States or negotiable paper as the tax collector in his discretion may elect all or any portion of tax-deeded property without regard to the boundaries of the parcels in which it was deeded to the state, as provided in this chapter, unless by other provisions of law "such tax-deeded property is not subject to sale", and substituted "tax-defaulted" for "tax-deeded" in the second paragraph, and made grammatical changes. Stats. 1986, Ch. 1420, effective January 1, 1987, added "has" before "become tax-defaulted" and inserted ", " after "redeemed" and after "parcels" in the first sentence of the first paragraph; and deleted ", if the right of redemption has not been terminated" after "subject to redemption", and substituted "(commencing with Section 4131) of Part 7" for ", Part 7, Division 1 of this code, except that no application need be made" after "Chapter 2" in the first sentence of the second paragraph. Stats. 1995, Ch. 189, in effect July 24, 1995, added ", and upon . . . shall sell," after "may sell" and substituted "that" for "which" after "tax-defaulted property" in the first sentence of the first paragraph. Stats. 1995, Ch. 906, in effect January 1, 1996, added subdivision letter and numerical designation "(a)(1)" before the first paragraph, added the third sentence to subdivision (a)(1), added numerical designation "(2)" before the second paragraph, and added subdivision (b). Stats. 1996, Ch. 699, in effect January 1, 1997, substituted "shall attempt to sell in accordance with Section 3692" for "may sell, and upon the request of a holder of a tax certificate sold in connection with that property, shall sell," after "power to sell" in the first sentence of subdivision (a)(1). Stats. 1997, Ch. 546 (SB 1107) deleted "after the effective date of the act that adds this subdivision in the case of vacant residential developed property" after "abatement lien" in the first sentence of subdivision (b)(1)(A).

Note.—See note following Section 2194.

Purchase by county officer.—Any county officer who does not in his official capacity conduct the sale may purchase at the sale. See Section 1090 of the Government Code. *Title Guarantee and Trust Co. v. Woody*; 63 Cal.App.2d 209.

Amendment permitting former owner to purchase at tax sale not retroactive.—The 1943 amendment to this section, permitting purchase by any person regardless of any prior lien, claim to or interest in the property, is not a curative statute, does not apply to sales made before its effective date, and does not apply to sales other than sales for cash or negotiable paper as provided in Chapter 7. *Merchants Finance Corp. v. Mahomed*, 82 Cal.App.2d 649.

Soldiers' and Sailors' Relief Act.—This section and Sections 3694, 3696, and 3697, which provide that a sale from the state may be made at any time after deed to the state, are modified by Section 205 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended in 1942, providing that the period of military service shall not be included in computing any period provided by law for the redemption of real property sold or forfeited to enforce a tax or assessment. *Margraf v. Los Angeles County*, 144 Cal.App.2d 647.

Sale after condemnation.—A tax deed issued by the county tax collector after the state had taken possession and commenced construction of a highway on the property is void. *People ex rel. Department of Public Works v. Fink*, 226 Cal.App.2d 19.

Effect on subsurface interest.—A special district's tax title and its collector's deed do not divest an owner of a subsurface estate held in fee simple where the district did not intend to and did not levy taxes upon the mining rights. The owner's defense and cross-complaint were not barred by the statute of limitations contained in the California Water Code. *Nevada Irrigation District v. Keystone Copper Corp.*, 224 Cal.App.2d 523.

3691.1. Notification that parcel is subject to sale. The tax collector shall execute a notice whenever a parcel becomes subject to the power of sale set forth in Section 3691 on a form prescribed by the Controller. The county clerk shall take acknowledgment of the notice without charge.

History.—Added by Stats. 1984, Ch. 988, in effect September 11, 1984. Stats. 1985, Ch. 316, effective January 1, 1986, added the second sentence. Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, substituted “execute a notice” for “notify the Controller” after “shall” and deleted “and provided” after “prescribed” in the first sentence and deleted “to the Controller” after “notice” in the second sentence.

Note.—See note following Section 2194.

3691.2. Contents of notice. The notice shall specify:

(a) That five years or more have elapsed since the taxes or assessments on the parcel were declared in default.

(b) That the property was duly assessed for taxation and the tax legally levied.

(c) That the property is subject to sale for nonpayment of taxes.

(d) The amount of taxes originally declared to be in default, unless there has been a partial cancellation of taxes, a redemption from a portion thereof, or a correction under Sections 4831.5 and 4876.5, in any of which events, the amount shall be the balance remaining.

(e) A metes and bounds or lot-block-tract description of the property.

History.—Added by Stats. 1984, Ch. 988, in effect September 11, 1984.

Note.—See note following Section 2194.

3691.3. Assessor to provide description to tax collector. By June 15 of the year property is to become subject to a power of sale under Section 3691, the assessor shall furnish to the tax collector a metes and bounds or lot-block-tract description of the property.

History.—Added by Stats. 1973, Ch. 731, p. 1316, in effect January 1, 1974. Stats. 1984, Ch. 988, in effect September 11, 1984, renumbered the section which was formerly numbered 3512.1, substituted “By June 15 . . . Section 3691” for “When property is scheduled to be tax-deeded to the state” and deleted “, by June 15,” after “shall furnish.”

Note.—See note following Section 2194.

3691.4. Recording. The notice shall be recorded with the county recorder. After recordation, the notice shall be forwarded to the tax collector. The recorder shall make no charge for the recording.

History.—Stats. 1984, Ch. 988, in effect September 11, 1984, renumbered the section which was formerly numbered 3514. Stats. 1988, Ch. 830, in effect January 1, 1989, deleted “, except that in counties where the county recorders are paid no salaries, but fees only, the recorders shall receive for filing, recording, and indexing each notice the sum of seventy-five cents (\$0.75), payable like other claims against the county” after “recording” in the third sentence. Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, deleted “to the Controller” after “notice” in the first sentence and substituted “tax collector” for “Controller” after “to the” in the second sentence.

Note.—See note following Section 2194.

3691.5. Filing by tax collector. The tax collector shall file the notice in his or her office and keep a record to show the subsequent disposition of the property.

History.—Stats. 1945, p. 2192, in effect September 15, 1945, made minor revisions. Stats. 1984, Ch. 988, in effect September 11, 1984, renumbered the section which was formerly numbered 3516. Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, substituted “tax collector” for “Controller” before “shall file” in the first sentence.

Note.—See note following Section 2194.

3691.6. Controller request for report. Upon the request of the Controller, the tax collector shall report the disposition of all tax-defaulted parcels subject to tax collections power of sale in his or her county.

History.—Added by Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999.

3692. Sale within two years. (a) The tax collector shall attempt to sell tax-defaulted property as provided in this chapter within four years of the time that the property becomes subject to sale for nonpayment of taxes unless by other provisions of law the property is not subject to sale. If there are no acceptable bids at the attempted sale, the tax collector shall attempt to sell the property at intervals of no more than six years until the property is sold.

(b) When oil, gas, or mineral rights are subject to sale for nonpayment of taxes, the tax collector may offer the interest at minimum bid to the holders of outstanding interests where the interest subject to sale is a partial interest or, where the interest subject to sale is a complete and undivided interest, to the owner or owners of the property to which the oil, gas, or mineral rights are appurtenant.

(c) When parcels that are rendered unusable by their size, location, or other conditions are subject to sale for nonpayment of taxes, the tax collector may offer the parcel at a minimum bid to owners of contiguous parcels. The tax collector shall require that the successful bidder request the assessor and the planning director to combine the unusable parcel with his or her own parcel as a condition of sale.

(d) Sealed bid sale procedures shall be used when offers are made pursuant to subdivision (b) or (c), and the property shall be sold to the highest eligible bidder. The offers shall remain in effect for 30 days or until notice is given pursuant to Section 3702, whichever is later.

(e) The Notice of Power to Sell Tax-Defaulted Property, Notice of Power and Intent to Sell Tax-Defaulted Property, Notice to the Board of Supervisors, and Notice of Intended Sale of Tax-Defaulted Property shall indicate that any parcel remaining unsold may be reoffered within a 90-day period and any new parties of interest shall be notified in accordance with Section 3701. This subdivision shall not apply to properties sold pursuant to Chapter 8 (commencing with Section 3771).

History.—Added by Stats. 1971, p. 2025, in effect March 4, 1972, operative July 1, 1972. Stats. 1973, Ch. 391, p. 854, in effect January 1, 1974, substituted the present second and third sentences in subdivision (b) for a sentence which provided “The offer shall remain in effect for 90 days or until notice is given pursuant to Section 3702 whichever is later”; and substituted the present second and third sentences in subdivision (c) for a sentence which provided the same as the one quoted above. Stats. 1976, Ch. 828, p. 1896, in effect January 1, 1977, substituted “may” for “shall” and substituted “at a minimum bid to owners” for “at minimum bid to the highest bidder among owners” in the first sentence, and added the balance of the third sentence of subdivision (c) after “used”. Stats. 1980, Ch. 411, in effect July 11, 1980, deleted “(a) Subject to the prior offers made pursuant to subdivisions (b) and (c),” at the beginning of the first paragraph; relettered subdivision “(b)” as “(a)” and “(c)” as “(b)”; substituted “may” for “shall” first, with the approval of the board of supervisors and within one year, before “offer”, deleted “highest bidder among” before “holders”, and deleted the second and third sentences in subdivision (a), deleted “miscellaneous” before “parcels” and “first, with the approval of the board of supervisors and within one year,” before “offer” in subdivision (b) and added the first sentence to and deleted the third sentence of the fourth paragraph. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “tax-defaulted property” for “tax-deeded property”, substituted “subject to sale for nonpayment of taxes” for “tax-deeded property”, and substituted “the property” for “such tax-deeded property” in the first sentence, and substituted “the” for “such” before “attempted.” in the second sentence of the first paragraph; and substituted “subject to sale for nonpayment of taxes” for “tax-deeded to the State” in subdivisions (a) and (b). Stats. 1985, Ch. 316, effective January 1, 1986, substituted “interest subject to sale” for “tax-deed interest” after “interests where the” and “or, where the” in subdivision (a). Stats. 1992, Ch. 523, in effect January 1, 1993, added “(a)” after “3692”, substituted “four” for “two” after “within”, added “with . . . Controller” after “shall”, substituted “six” for “four” after “than”, in subdivision (a); substituted “(b)” for “(a)” at the beginning of the former subdivision (a); substituted “(c)” for “(b)” at the beginning of the former subdivision (b); and added “(d)” before “Sealed”, substituted “(b)” for “(a)” after “subdivision” and substituted “(c)” for “(b)” after “or”, in the second paragraph of subdivision (c). Stats. 1993, Ch. 1187, in effect January 1, 1994, substituted “that” for “which” after “parcels”, and added “, or may require that an unusable parcel be joined with a contiguous parcel as a condition of sale” after “contiguous parcels” in subdivision (c). Stats. 1995, Ch. 527, in effect January 1, 1996, added a period after “contiguous parcels”, substituted “The tax collector shall” for “, or may” after “parcels.”, substituted “the successful . . . combine the” for “an” after “require that”, and substituted “with his or her

own" for "be joined with a contiguous" after "unusable parcel" in subdivision (c); and added subdivision (e). Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, deleted "with the approval of the Controller" after "shall" in the second sentence of subdivision (a). Stats. 1999, Ch. 941 (SB 1231), in effect January 1, 2000, substituted "Notice of Power to Sell Tax-Defaulted Property, Notice of Power and Intent to Sell Tax-Defaulted Property, Notice to the Board of Supervisors, and Notice of Intended Sale of Tax-Defaulted Property" for "original notice" after "The" in the first sentence of subdivision (e). Stats. 2001, Ch. 121 (SB 1183), in effect January 1, 2002, added a comma after "location" in the first sentence of subdivision (c); and substituted "reoffered" for "resold" after "may be" in the first sentence of subdivision (e).

Note.—See note following Section 2194.

3693. Sale at public auction; cash sale. With the exception of sealed bid sale procedures authorized under Section 3692, all sales pursuant to this chapter shall be at public auction to the highest bidder. The amount of the high bid shall be paid in cash in lawful money of the United States or negotiable paper or any combination thereof which the tax collector specifies.

History.—Stats. 1945, p. 1311, in effect September 15, 1945, added the balance of the sentence after "cash". Stats. 1983, Ch. 1224, in effect January 1, 1984, substituted the first and second sentences for "The sale shall be at public auction for cash in lawful money of the United States or negotiable paper as the tax collector in his discretion may elect.".

3693.1. Cash or credit sale. Notwithstanding Section 3693, if the high bid is in excess of five thousand dollars (\$5,000), the tax collector may make the sale a cash or credit transaction. In the event the tax collector approves the successful purchaser's request to treat the sale as a credit transaction, five thousand dollars (\$5,000) or 10 percent of the purchase price, whichever is greater, shall be deposited with the tax collector and the balance of the purchase price shall be paid in cash in lawful money of the United States or negotiable paper as specified by the tax collector within a period specified by the tax collector not to exceed 90 days from the date of the auction as a condition precedent to the transfer of title to that successful purchaser. Failure on the part of the successful bidder to consummate the sale within the period specified by the tax collector shall result in the forfeiture of the deposit and all rights he or she may have with respect to that property. Any forfeiture of deposit shall be distributed to the county general fund and shall not apply to outstanding delinquent taxes. Upon forfeiture the right of redemption shall revive.

History.—Added by Stats. 1975, Ch. 1053, p. 2492, in effect January 1, 1976. Stats. 1984, Ch. 866, in effect January 1, 1985, substituted "90 days" for "60 days," in the second sentence, and substituted "to the county . . . delinquent." for "as" after "distributed" in the fourth sentence. Stats. 1986, Ch. 1420, effective January 1, 1987, substituted the fifth sentence for the former fifth sentence which provided that "This section may be held applicable in any tax auction sale in the county at the discretion of the tax collector.". Stats. 1990, Ch. 992, in effect January 1, 1991, added "tax collector approves the" after "event the", substituted "purchaser's request" for "purchaser elects", after "successful", added "in lawful money . . . the tax collector" after "cash", substituted "to exceed" for "more than" after "not", and substituted "that" for "such" after "title to" in the second sentence; substituted "specified by the tax collector" for "allowed" after "period", added "or she" after "he", and substituted "that" for "such" after "respect to" in the third sentence.

Note.—Stats. 1984, Ch. 866, also provided that no appropriation be made or reimbursement required.

3694. Approval required. A sale under this chapter shall take place only if approved by the board of supervisors.

History.—Stats. 1995, Ch. 189, in effect July 24, 1995, added subdivision letter designation (a) before first paragraph, and added subdivision (b). Stats. 1996, Ch. 699, in effect January 1, 1997, deleted subdivision letter designation (a) before the first sentence and deleted former subdivision (b) which read "Notwithstanding subdivision (a), any sale of a property for which there exists an outstanding tax certificate, that has been approved by the holder of that tax certificate, shall not require the approval of the board of supervisors or the authorization of the Controller." Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, deleted "and authorized in writing by the Controller" after "supervisors" in the first sentence.

3695. Other taxing agencies' consent. If the governing body of any taxing agency does not, before the date of sale, file with the tax collector and the board of supervisors certified copies of a resolution adopted by the

governing body objecting to the sale, the taxing agency has consented to the sale. If the taxing agency consents to the sale the lien of its taxes or assessments and any rights which it may have to the property as a result of such taxes or assessments are canceled by a sale under this chapter and it is entitled to its proper share of the proceeds deposited in the delinquent tax sale trust fund. If the taxing agency does object to the sale, the lien of its taxes or assessments or any rights which the taxing agency may have to the property are not affected by a sale under this chapter. Provided, however, that any taxing agency which is also a revenue district may not object to a sale unless it files with such objection an executed proposed agreement under Chapter 8 of this part to purchase the property, but not including an option to purchase, at a price not less than the minimum bid.

If a taxing agency which is not also a revenue district objects to the sale and before the date of sale applies in writing to the board of supervisors to purchase the property under Chapter 8 of this part at a price equal to that approved by the board of supervisors, or upon a pro rata division of the proceeds of a sale as may be provided under Chapter 8, the tax collector shall not proceed with the sale.

History.—Stats. 1941, p. 3115, in effect September 13, 1941, reworded portions of first paragraph and added second paragraph. Stats. 1945, p. 990, in effect September 15, 1945, added last sentence to first paragraph and added clause relating to revenue districts in second paragraph.

State-owned property.—Title gained by the State through a conveyance other than a tax deed is not canceled by the failure of the State to object to the sale. *People v. Chambers*, 37 Cal.2d 552.

The holder of an unreforeclosed 1911 Improvement Act bond may not recover a pro rata share of the surplus proceeds from a tax sale where the assessment district issuing the bond did not object to the sale and the bondholder's lien is not canceled by the sale. *Montgomery v. Contra Costa County*, 235 Cal.App.2d 759.

3695.3. Meaning of “assessments.” As used in Section 3695, “assessments” does not include assessments which were, at the time of the declaration of default or sale to the taxing agency, not included in the amount required to redeem the property.

History.—Added by Stats. 1941, p. 2464, in effect July 1, 1941. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “declaration of default or sale” for “sale to the State” and substituted “the property” for “from the sale to the State or to the taxing agency.”

Note.—See note following Section 2194.

3695.4. Property needed for public use. In addition to the provisions in Section 3695 relative to objections to sales, the state or city or any taxing agency or revenue district may file with the county tax collector written objection to the sale of, along with an application to purchase in accordance with Chapter 8 (commencing with Section 3771), any property that is or may be needed for public use. The written objection shall specify the description of the property needed, whether the fee or an easement is required, and the public purpose to which the property is intended to be devoted.

The objection and application shall be filed with the tax collector before the date of the first publication of the notice of intended sale pursuant to Sections 3702 and 3703. If the state, a city, taxing agency, or revenue district files an objection and application in compliance with this section, the tax collector may not proceed with the sale of the subject property.

History.—Added by Stats. 1943, p. 2426, in effect August 4, 1943. Stats. 1945, p. 972, in effect September 15, 1945, deleted last clause of second sentence, relative to easements, and completely revised everything following second sentence. Stats. 1985, Ch. 316, effective January 1, 1986, deleted “of this code” after Section 3695, substituted “state” for “State” after “sales, the”, substituted “that” for “such” after “sale of” in first sentence of first paragraph; substituted “The” for “Such” following “public use,” in second sentence of first paragraph; substituted “The” for “Such” after “devoted,” substituted “the” for “such” after “purchase”, substituted “(commencing with Section 3771)” for “”, Part 6, Division 1 of this code” after “Chapter 8”, and added “pursuant to Sections 3702 and 3703” after “intended sale in first sentence of second paragraph; substituted “the” for “such” after “proceed with”, “the” for “such” after “cancel”, and “the State” for “such State” after “application of” in second sentence of second paragraph. Stats. 2000, Ch. 606 (AB 2229), in effect January 1, 2001, deleted “and county board of supervisors” after “tax collector”, substituted “of, along with an application to purchase in accordance with Chapter 8 (commencing with Section 3771),” for “of that part of” after “sale”, and substituted “which” for “that” after property in the first sentence of the first paragraph; substituted “and application” for “shall be accompanied by an application to purchase that part of the property under Chapter 8 (commencing with Section 3771, which” after “The objection”, and deleted “the board of supervisors and” after “filed” in the first sentence of the second paragraph, and substituted the second sentence of the second paragraph for the former second sentence, which provided that “The tax collector may proceed with the sale or may cancel the sale or may proceed to sell the portion of the parcel not included in the application of the state, city, or other taxing agency or revenue district.”

3695.5. Nonprofit organization purchasing property. In addition to the provisions of Sections 3695 and 3695.4 relative to objections to sales, any nonprofit organization may file with the county tax collector written objection to the sale for taxes of, and a written application to purchase in accordance with Chapter 8 (commencing with Section 3771), any residential or vacant real property that the nonprofit organization states in writing that it will:

(a) In the case of residential real property, rehabilitate and sell or rent to, or otherwise use the property to serve, low-income persons.

(b) In the case of vacant real property, construct residential dwellings on the property and sell or rent the property to low-income persons, otherwise use the property to serve low-income persons, or dedicate the vacant property to public use, including those uses referred to in subdivision (a).

The objection and application shall be filed with the tax collector before the date of the first publication or posting of the notice of intended sale pursuant to Sections 3702 and 3703. If the nonprofit organization files an objection and application in compliance with this section and with any conditions of sale established pursuant to Section 3795.5, the tax collector may not proceed with the sale of the property.

The terms “nonprofit organization,” “low-income persons” and “rehabilitation” shall have the same meaning in this section as in Chapter 8 (commencing with Section 3771).

History.—Added by Stats. 1977, Ch. 1120, in effect January 1, 1978. Stats 1979, Ch. 1188, in effect September 30, 1979, operative January 1, 1980, added “or vacant” after “residential”, and substituted subsections (a) and (b) for “sell to low-income persons” in the first sentence of the first paragraph; and deleted “date of the first publication of the notice of” after “before the” in the first sentence, and substituted “not less than the minimum bid” for “equal to that” in the second sentence of the second paragraph. Stats. 1984, Ch. 988, in effect September 11, 1984, added “for taxes” after “objection to the sale” and deleted “which was deeded to the state and ” after “vacant real property.” in the first sentence. Stats. 1997, Ch. 477 (SB 219), in effect January 1, 1997, added “or rent to, or otherwise use” after “and sell” and added “serve,” after “property to” in the first sentence of subdivision (a); substituted “residential dwellings” for “a residential dwelling” after “construct”, added “or rent” after “sell” and added “, including those uses referred to in subdivision (a)” after “public use” in the first sentence of the first paragraph; and substituted “These” for “Such” before “objections” in the first sentence, added a comma after “sale and” and added a comma after the second “the sale” in the second sentence of the second paragraph of subdivision (b). Stats. 2000, Ch. 606 (AB 2229), in effect January 1, 2001 deleted “and county board of supervisors” after “tax collector”, added “, and a written application to purchase in accordance with Chapter 8 (commencing with Section 3771),” after “taxes of”, substituted “which” for “that” after “property”, and deleted “will rehabilitate and” after “that it” in the first sentence of the first paragraph; substituted a period for a semicolon and deleted “or” in subdivision (a); deleted “either” after “property” and added “, otherwise use the property to serve low-income persons,” after “persons” in subdivision (b); substituted “The objection and application” for “These objections shall be accompanied by an application to purchase the property under Chapter 8 (commencing with Section 3771) of this part, which”, deleted “the board of supervisors and” after “filed with”, and substituted “date of the first publication or posting of the notice of intended sale pursuant to Section 3702 and 3703” for “intended sale” after “before the” in the first sentence of the second paragraph, and substituted the second sentence of the second paragraph for the former

second sentence, which provided that “If a nonprofit organization objects to the sale and, before the date of sale, applies in writing to the board of supervisors to purchase the property under Chapter 8 (commencing with Section 3771) of this part at a price not less than the minimum bid approved by the board of supervisors, the tax collector shall not proceed with the sale.”

Note.—See note following Section 2194.

3696. Sale on application. [Repealed by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981.]

3696.5. Return of deposit. [Repealed by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981.]

3697. Sale without application. [Repealed by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981.]

3698. Notice to supervisors. To make any sale under this chapter, the tax collector shall transmit a notice to the board of supervisors, stating:

- (a) His intention to make a sale under this chapter, and the type of sale;
- (b) A description of the property to be sold;
- (c) The minimum price at which it is proposed to sell the property.

3698.5. Minimum price. (a) Except as provided in Section 3698.7, the minimum price at which property may be offered for sale pursuant to this chapter shall be an amount not less than the total amount necessary to redeem, plus costs. For purposes of this subdivision:

- (1) The “total amount necessary to redeem” is the sum of the following:
 - (A) The amount of defaulted taxes.
 - (B) Delinquent penalties and costs.
 - (C) Redemption penalties.
 - (D) A redemption fee.

(2) “Costs” are those amounts described in subdivisions (a) and (b) of Section 4112, Sections 4672, 4672.1, 4672.2, 4673, and subdivision (b) of Section 4673.1.

(b) This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.

(c) Where property or property interests have been offered for sale at least once and no acceptable bids therefor have been received at the minimum price determined pursuant to subdivision (a), the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that same property or those interests at the same or next scheduled sale at a minimum price that the tax collector deems appropriate in light of the most current assessed valuation of that property or those interests, or any unique circumstance with respect to that property or those interests.

History.—Added by Stats. 1979, Ch. 615, in effect January 1, 1980. Stats. 1980, Ch. 411, in effect July 11, 1980, deleted “inclusive of the costs of appraisal, advertising, and recording” after “auction” in the first sentence of subdivision (b) and added subdivision (c). Stats. 1984, Ch. 866, in effect January 1, 1985, substituted “offered for sale” for “sold”, substituted “not less than 25 percent” for “equal to not less than 50 percent” and deleted “of such property” after “fair market value” in subdivision (a). Stats. 1985, Ch. 316, effective January 1, 1986, substituted “the” for “such” after “value of” in subdivision (b); substituted “property or interests which qualify” for “tax-deeded property which qualifies” after “apply to” in subdivision (c). Stats. 1993, Ch. 1187, in effect January 1, 1994, substituted “the total amount necessary to redeem, plus costs. For purposes of this subdivision:” for “25 percent of the fair market value” after “less than” in subdivision (a); deleted former subdivision (b) which defined fair market value as the amount defined in Section 110 as determined pursuant to a specified appraisal; added paragraphs (1) and (2) to subdivision (a); relettered former subdivision (c) as (b); and added subdivision (c). Stats. 1994, Ch. 705, in effect January 1, 1995, substituted “that” for “which” after “interests” and substituted “(b) and (c)” for “(a) and (b)” after “subdivisions” in subdivision (b). Stats.

1995, Ch. 496, in effect January 1, 1996, substituted "Except as provided in Section 3698.7, the" for "The" after "(a)" in subdivision (a). Stats. 1996, Ch. 800, in effect January 1, 1997, added "at the minimum price determined pursuant to subdivision (a)" after "have been received", substituted "that same property" for "that property" after "supervisors, offer", substituted "the same or next" for "the next" after "those interests at", and added "in light of the most current assessed valuation of that property or those interests, or any unique circumstance with respect to that property or those interests" after "collector deems appropriate" in subdivision (c).

Note.—Section 7 of Stats. 1979, Ch. 615, provided that Sections 1, 2, 2.1, 2.2, and 2.5 of this act shall apply with respect to the sale of tax-deeded property which is approved by resolution of the board of supervisors pursuant to Section 3699 of the Revenue and Taxation Code after the effective date of this act. Section 8 thereof provided no payment by state to local governments because of this act.

Note.—See note following Section 3693.1.

3698.7. Minimum price for property with welfare exemption.

(a) With respect to property for which a property tax welfare exemption has been granted and which has become tax defaulted, the minimum price at which the property may be offered for sale pursuant to this chapter shall be the higher of the following:

(1) Fifty percent of the fair market value of the property. For the purposes of this paragraph, "fair market value" means the amount as defined in Section 110 as determined pursuant to an appraisal of the property by the county assessor within one year immediately preceding the date of the public auction. From the proceeds of the sale, there shall be distributed to the county general fund an amount to reimburse the county for the cost of appraising the property. The value of the property as determined by the assessor pursuant to an appraisal shall be conclusively presumed to be the fair market value of the property for the purpose of determining the minimum price at which the property may be offered for sale.

(2) The total amount necessary to redeem, plus costs. For purposes of this paragraph:

(A) The "total amount necessary to redeem" is the sum of the following:

- (i) The amount of defaulted taxes.
- (ii) Delinquent penalties and costs.
- (iii) Redemption penalties.
- (iv) A redemption fee.

(B) "Costs" are those amounts described in subdivisions (a) and (b) of Section 4112, Sections 4672, 4672.1, 4672.2, and 4673, and subdivision (b) of Section 4673.1.

(b) This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.

(c) Where property or property interests have been offered for sale at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that property or those interests at the next scheduled sale at a minimum price that the tax collector deems appropriate.

History.—Added by Stats. 1995, Ch. 496, in effect January 1, 1996. Stats. 1996, Ch. 124, in effect January 1, 1997, added "and" after "4672.1, 4672.2," in subparagraph (B) of paragraph (2) of subdivision (a).

3698.8. Removal from sale. The tax collector, upon the recommendation of county counsel, may remove a parcel from the tax sale if it is deemed the removal is in the best interest of the county. The tax collector shall notify the controller, in writing, whenever a parcel is removed from a tax sale.

History.—Added by Stats. 2001, Ch. 121 (SB 1183), in effect January 1, 2002.

3699. Supervisors' approval. [Repealed by Stats. 1996, Ch. 800, in effect January 1, 1997.]

3700. Notices to agencies. Upon providing notice to the board of supervisors as required by Section 3698, the tax collector shall forward one copy to the clerk or secretary of the governing board of each taxing agency, other than the county, having the right to levy taxes or assessments on the property and may forward one copy to each nonprofit organization that has submitted, within one year prior to the next scheduled tax sale or prior to July 31 of the current calendar year, a written request to the tax collector for notification. The copy or copies shall be mailed or delivered at least 30 days before the first publication or posting of the notice of intended sale. However, where the tax collector has on file a consent from each taxing agency, the tax collector may proceed to publish or post the notice of sale.

History.—Stats. 1941, p. 3116, in effect September 13, 1941, added subdivision (b). Stats. 1945, p. 973, in effect September 15, 1945, added last sentence. Stats. 1947, p. 2025, in effect September 19, 1947, revised section to provide for additional copy to Controller, and added language following "intended sale" to subdivision (b). Stats. 1984, Ch. 988, in effect September 11, 1984, added the second paragraph of subdivision (b). Stats. 1996, Ch. 800, in effect January 1, 1997, substituted "Upon providing notice to the board of supervisors as required by Section 3698," for "On receipt of the copy of the resolution approving the sale" and added "copies of that same notice as follows" after "collector shall forward" in the first sentence of the section; substituted "his or her" for "his" after "the Controller for" in subdivision (a); and substituted "The" for "Such" before "copy or copies", substituted "sale. However" for "sale; provided, however" after "notice of intended", and substituted "Controller, the tax collector" for "Controller he" after "authorization from the" in the former second sentence of subdivision (b). Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, deleted "copies of that same notice as follows:" after "shall forward" in the first sentence of the section; deleted former subdivision (a) which provided that two copies of the notice be provided to the Controller; deleted subdivision letter designation (b), created the first sentence with the balance of the former first sentence of former subdivision (b) after "shall forward", deleted "and the authorization from the Controller" after "agency" in the former third sentence of former subdivision (b) and deleted the former second paragraph therein which provided that no person shall have any cause of action against the state or any state officer or employee on account of the authorization from the Controller. Stats. 2000, Ch. 606 (AB 2229), in effect January 1, 2001 added "and may forward one copy to each nonprofit organization that has submitted, within one year prior to the next scheduled tax sale or prior to July 31 of the current calendar year, a written request to the tax collector for notification" after "property" in the first sentence.

Note.—See note following Section 2194.

3700.5. Notice to Controller. Not less than 45 days nor more than 120 days before the proposed sale, the tax collector shall send notice of the proposed sale to the Controller. The notice shall state the date, time, and place of the proposed sale. The tax collector shall notify the Controller of any postponement of the tax sale and the date, time, and place of the sale.

History.—Added by Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999.

3701. Notice to assessee. [Repealed by Stats. 1979, Ch. 615, in effect January 1, 1980.]

3701. Notice to assessee. Not less than 45 days nor more than 120 days before the proposed sale, the tax collector shall send notice of the proposed sale by certified mail with return receipt requested to the last known mailing address, if available, of parties of interest, as defined in Section 4675. The notice shall state the date, time, and place of the proposed sale, the amount

required to redeem the property, and the fact that the property may be redeemed up to the close of business on the last business day prior to the date of sale, and information regarding the rights of parties of interest to claim excess proceeds, as defined in Section 4674, if the property is sold and excess proceeds result from that sale.

The tax collector shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.

The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive the mailed notice.

History.—Added by Stats. 1979, Ch. 615, in effect January 1, 1980. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted "45 days" for "21 days", and substituted "60 days" for "28 days" in the first sentence of the first paragraph. Stats. 1986, Ch. 1420, effective January 1, 1987, substituted "the property, and the fact that the property may be redeemed up to the close of business on the last business day prior to the date of sale" for "prior to the time of sale" after "redeem" in the second sentence of the first paragraph. Stats. 1996, Ch. 800, in effect January 1, 1997, substituted "120 days" for "60 days" after "nor more than" in the first sentence, and substituted "The notice shall state" for "The contents of the notice shall include" before "the date, time," and substituted "that" for "such" after "proceeds result from" in the second sentence. Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, deleted "After receiving the written authorization of the Controller, and" before "Not less" and substituted "certified mail with return receipt requested" for "registered mail" after "sale by" in the first sentence of the first paragraph.

Note.—Section 7 of Stats. 1979, Ch. 615, provided that Sections 1, 2, 2.1, 2.2, and 2.5 of this act shall apply with respect to the sale of tax-deeded property which is approved by resolution of the board of supervisors pursuant to Section 3699 of the Revenue and Taxation Code after the effective date of this act. Section 8 thereof provided no payment by state to local governments because of this act.

Note.—See note following Section 2194.

Construction.—A county's failure to discover the whereabouts of the owner of a parcel of property before proceeding with a state tax sale of the property violated both the due process clause of the United States Constitution and this section where, although the county mailed the owner notice of the pending sale, it did so with full knowledge that the notice would not reach the owner since for a year the county's tax bills had been returned marked "undeliverable". *Sinclair & Valentine Company, Inc. v. Los Angeles County*, 201 Cal.App.3d 1021. A county's failure to make a reasonable effort to obtain a secured lienholder's last known mailing address before proceeding with its tax sale of the property violated both the due process clause of the United States Constitution and this section. The county's sole reliance on a lot book report, which would not provide notice of documents recorded after the creation of a lien, did not constitute a reasonable effort. *Bank of America v. Giant Inland Empire R. V. Center, Inc.*, 78 Cal.App.4th 1267.

Decisions Under Former Section 3701

Construction.—The provision of Revenue and Taxation Code, Section 3701, regarding the efforts of the tax collector to ascertain the address is valid provided that due process has otherwise been afforded to the delinquent taxpayer, *Philbrick v. Huff*, 60 Cal.App.3d 633.

3701.5. Cancellation of sale. [Repealed by Stats. 1983, Ch. 1224, in effect January 1, 1984.]

3702. Notice of sale to be published. The tax collector shall publish the notice of intended sale once a week for three successive weeks in a newspaper of general circulation published in the county seat and in a newspaper of general circulation published in the judicial district in which the property is situated. If the same newspaper of general circulation is published in both the county seat and in such district, or if the publication of the notice of sale is made in a newspaper which is determined pursuant to Section 3381 as most likely to afford adequate notice of the sale, publication in such paper shall satisfy the requirements for publication set forth in this section. If there is no newspaper published in the county seat or in the judicial district, then publication may be made by posting notice in three public places in the

county seat or in the judicial district, as the case may be, where no such newspaper is published. The publication shall be started not less than 21 days prior to the sale.

History.—Stats. 1947, p. 2026, in effect September 19, 1947, amended first sentence by adding “successive” and “of general circulation,” by substituting “public” for “conspicuous,” and by deleting provision that one of the places of posting must be in the United States post office nearest the property. Stats. 1965, p. 2683, in effect September 17, 1965, completely revised this section. Stats. 1972, p. 1390, in effect March 7, 1973, substituted “3381” for “3391” in the second sentence of the first paragraph.

3703. Notice by posting. If in the judgment of the board of supervisors any property to be sold under this chapter will bring at auction less than the cost of publication in a newspaper, the publication of the notice of intended sale may be made in the same manner as if there were no newspaper published in the county seat or in the judicial district.

History.—Stats. 1965, p. 2684, in effect September 17, 1965, added “seat or in the Judicial district.”

3704. Contents of notice. The notice of intended sale shall state all of the following:

- (a) The date, time, and place of the intended sale.
- (b) A description of the property to be sold.
- (c) The name of the last assessee of the property.
- (d) The minimum acceptable bid of the property to be sold.
- (e) There shall also be a statement that if the property is not redeemed before the close of business on the last business day prior to the date of the sale, the right of redemption will cease.
- (f) If the property is sold, parties of interest, as defined in Section 4675, have the right to file a claim with the county for any proceeds from the sale which are in excess of the liens and costs required to be paid from the proceeds.
- (g) If excess proceeds result from the sale, notice will be given to parties of interest, pursuant to law.
- (h) If the parcel remains unsold after the tax sale, the date, time, and location of any subsequent sale.

History.—Stats. 1945, p. 193, in effect September 15, 1945, revised subdivision (c) to require only the name of the last assessee instead of the name of the assessee for each year in which there were delinquent taxes. Stats. 1947, p. 1631, in effect September 19, 1947, added reference to installment plan of redemption to subdivision (d). Stats. 1957, p. 2179, in effect September 11, 1957, deleted “or an installment plan of redemption initiated” following “redeemed” in subdivision (d). Stats. 1979, Ch. 615, in effect January 1, 1980, added “date,” after “The” in subdivision (a); relettered subdivision (d) as subdivision (e); and added subdivisions (d), (f), and (g). Stats. 1986, Ch. 1420, effective January 1, 1987, added “all of the following” after “state” in the first sentence, deleted “If the right to redeem the property has not already been terminated” at the beginning of subsection (e), and substituted “the close of business on the last business day prior to the date of the sale,” for “it is sold,” after “before” therein. Stats. 1995, Ch. 527, in effect January 1, 1996, added subdivision (h).

Assessee must be correctly stated.—Failure of the tax collector to state correctly in the notice of sale the name of the assessee renders the sale invalid. *Biaggi v. Phillips*, 50 Cal.App.2d 92.

3704.5. Additional notice of sale. In addition to the published notice required by Section 3702, the tax collector may advertise the intended sale by any means authorized by the board of supervisors.

History.—Added by Stats. 1975, Ch. 1053, p. 2493, in effect January 1, 1976.

3704.7. Contact in person. (a) In the case of a property that is the primary residence of the last known assessee, as indicated by either a valid homeowner’s exemption on file with the county assessor in the name of the

last known assessee, or the fact that the mailing address for the last tax bill is the same address as the property, the tax collector or his or her agent shall, in addition to any other notice required by this chapter, make a reasonable effort to contact in person, not more than 120 days or less than 10 days prior to the date of sale, the owner-occupant of that property. In the course of the personal contact, the tax collector, or his or her agent, shall inform the owner-occupant of the following:

(1) That the property, if not redeemed, shall be offered for sale at a public auction.

(2) His or her redemption rights pursuant to Part 7 (commencing with Section 4101).

(b) If the personal contact described in subdivision (a) is not made after reasonable efforts, the tax collector or his or her agent shall attempt to serve written notice, no less than five days prior to the date of the sale, with respect to the fact of the sale and the requirement that the tax collector be contacted immediately with respect to redemption of the property.

(c) The amount of the actual and reasonable costs incurred by the tax collector, or his or her agent, or both, in complying with the requirements of subdivisions (a) and (b), not to exceed one hundred dollars (\$100), shall be added to the required amount for redemption of the property.

(d) No transfer of title shall be invalidated by reason of failure to comply with the requirements of this section.

History.—Added by Stats. 1991, Ch. 597, in effect January 1, 1992. Stats. 1996, Ch. 800, in effect January 1, 1997, substituted “120 days” for “60 days” after “not more than” in the first sentence of subdivision (a).

3705. Bid by taxing agency. Any city or the State or any taxing agency or revenue district may bid on property.

History.—Stats. 1941, p. 3099, in effect September 13, 1941, added second sentence. Stats. 1943, p. 2427, in effect August 4, 1943, amended section to permit cities and taxing agencies to bid on any property instead of just property on which it has levied taxes or assessments; deleted provision authorizing last assessee to bid.

3706. Sale. If the property is not redeemed before the close of business on the last business day prior to the date of the sale of the property, the tax collector shall sell the property at public auction to the highest bidder at the time and place fixed.

In the case of a sale at public auction no bid shall be accepted for a sum less than the minimum price approved in the resolution of the board of supervisors; provided, however, the tax collector may reduce such minimum price when a partial redemption has been made under Chapter 2, Part 7, Division 1 of this code, or when a partial cancellation has been made under Chapter 4, Part 9, Division 1 of this code, after such price was fixed, by not more than the ratio that the delinquency on the portion so redeemed or canceled bears to the delinquency upon the whole.

History.—Stats. 1941, p. 3099, in effect September 13, 1941, made second paragraph applicable to sales on application and eliminated provision that the minimum price at such sales may not be less than the amount offered by the applicant. Stats. 1945, p. 2194, in effect September 15, 1945, revised first paragraph to require redemption before first bid instead of before sale, and added provision for reduction of minimum price after a partial redemption. Stats. 1947, p. 2026, in effect September 19, 1947, revised second paragraph adding “plus the amount of one dollar (\$1),” and provision for reduction of the minimum price after partial cancellation. Stats. 1951, p. 1761, in effect September 22, 1951, deleted “plus

the amount of one dollar (\$1)" from computation of minimum acceptable bid. Stats. 1986, Ch. 1420, effective January 1, 1987, substituted "close of business on the last business day prior to the date of the sale of the" for "first bid is received on such" after "the" in the first paragraph; and deleted "whether on application of a prospective purchaser, or without any application from a prospective purchaser," after "public auction" in the second paragraph.

Bankruptcy.—When real property is sold to the State for nonpayment of property taxes prior to the filing of a bankruptcy petition, and, after the filing, neither the debtor nor the bankruptcy trustee takes any action to redeem the property, set aside the conveyance to the State, or interfere in any way with the tax sale proceeding, a third party grantee of the property has no standing to object to the tax sale as a violation of the automatic stay. *Campbell v. Lauigan*, 202 Cal.App.3d 651.

3706.1. Postponement of sale. The tax collector shall have authority to postpone the public auction sale or any portion thereof under the following conditions:

(a) Notice of any postponement of the sale shall be made by the tax collector who, by public declaration at the time and place originally fixed for the sale, may postpone the sale to a new time, date, and place. No other notice of the postponed sale need be given if the date for the new time, date, and place is within seven days of the time originally fixed for the sale.

(b) Notice of any postponed sale that is to be held not less than eight days nor more than 60 days from the time originally fixed for the sale, shall be made pursuant to the same provisions that were followed in providing notice of the original sale to parties of interest, as defined in Section 4675.

History.—Added by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981. Stats. 1994, Ch. 705, in effect January 1, 1995, added "or any portion thereof" after "sale" in the first paragraph; substituted "that" for "such" after "sale", substituted "60" for "40" after "more than", and substituted "that" for "which" after "provisions" in subdivision (b).

3707. Redemption right. (a) The right of redemption shall terminate at the close of business on the last business day prior to the date the sale begins.

(b) Notwithstanding any other provision of law, any remittance sent by mail for redemption of tax-defaulted property must be received in the tax collector's office prior to the time established in subdivision (a).

(c) The sale shall be deemed complete when a qualified bid is accepted by the tax collector.

(d) The right of redemption revives if the property is not sold.

History.—Original section, which was identical with the present section, was repealed by Stats. 1941, p. 138 (First Extra Session, 1940), in effect June 1, 1941. The present section was enacted by Stats. 1941, p. 3099, in effect September 13, 1941, containing provisions relative to sales to last assessee, which were deleted by Stats. 1943, p. 1989. Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981, added "(a)" before "If not" in the first paragraph, and added subdivision (b). Stats. 1984, Ch. 988, in effect September 11, 1984, substituted "tax-defaulted" for "tax-deeded." Stats. 1986, Ch. 1420, effective January 1, 1987, substituted subdivision (a) for former subdivision (a), which provided that "If not previously terminated, on completion of any sale under this chapter the right of redemption is terminated."; substituted "time established in subdivision (a)" for "completion of any sale under this chapter" after "to the" in subdivision (b); and added subdivision (c) and subdivision (d).

NOTE.—See note following Section 2194.

Application.—Section 3511.4 of the Revenue and Taxation Code (repealed June 5, 1947), extending the right of redemption, did not refer or apply to this section. *Larkin v. Bank of America*, 93 Cal.App.2d 594.

Construction.—The right to redeem tax-delinquent property is governed by statute and the time of termination of such right is not affected by statements of the tax collector. *Union Title Insurance and Trust Co. v. Thorp*, 94 Cal.App.2d 421.

3708. Deed to purchaser. On receiving the full purchase price at any sale under this chapter, the tax collector shall, without charge, execute a deed to the purchaser.

History.—Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981, added "and send a duplicate copy of the deed to the Controller" after "purchaser". Stats. 1987, Ch. 1184, in effect January 1, 1988, operative July 1, 1988, substituted "conformed" for "duplicate" after "send a", and added "containing the recorder's indexing data" after "deed". Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, deleted "and send a conformed copy of the deed containing the recorder's indexing data to the Controller" after "the purchaser" in the first sentence.

3708.1. Recordation of deed. Upon execution the tax collector shall immediately record the deed with the county recorder and pay the recording fees. Recording of the deed shall constitute delivery thereof to the grantee named in the deed.

History.—Added by Stats. 1947, p. 2026, in effect September 19, 1947. Stats. 1951, p. 1761, in effect September 22, 1951, substituted “proceeds of the sale” for “sum bid at the sale.” Stats. 1957, p. 2398, in effect September 11, 1957, amended first sentence by adding “recording fees” and deleting provision designating source from which to pay and amount of recording fee. Stats. 1994, Ch. 705, in effect January 1, 1995, renumbered the section which was formerly numbered 3708.5; substituted “immediately” for “forthwith”; substituted “the” for “said” before “deed” twice, deleted “therein” before “named” and added “in the deed” after “named”.

3708.5. Corrected deed. If a deed to the purchaser contains a clerical error or misstatement of fact, a corrected deed may be issued by the tax collector and recorded with the county recorder without charge. The new deed shall contain a statement of reasons for its issuance and, as far as practical, shall be the same as the original except where corrected.

History.—Added by Stats. 1979, Ch. 242, in effect July 10, 1979. Stats. 1994, Ch. 705, in effect January 1, 1995, renumbered the section which was formerly numbered 3708.1.

3709. Acknowledgment. The county clerk shall take acknowledgment of the deed without charge.

3710. Contents of deed. In addition to the usual provisions of a deed conveying real property, the deed shall specify all of the following:

(a) That the legally levied taxes on the subject property were duly declared to be in default and were a lien on the property.

(b) That the tax collector, pursuant to a statutory power of sale, has sold the property.

(c) If a taxing agency objected to the sale, the fact of the objection and the name of the objecting taxing agency.

(d) The name of the purchaser, the date of sale, and the amount for which the property was sold.

(e) That the property is therefore conveyed to the purchaser according to law.

History.—Stats. 1945, p. 2194, in effect September 15, 1945, added reference to advertising costs in former subdivision (c). Stats. 1947, p. 2557, in effect September 19, 1947, added new paragraph as present subdivision (c) and relettered former subdivisions (c) and (d) as present subdivisions (d) and (e), respectively. Stats. 1951, p. 1762, in effect September 22, 1951, added “and recording” to subdivision (d). Stats. 1979, Ch. 615, in effect January 1, 1980, substituted “A statement that the property was sold in accordance with the provisions of subdivision (c) of Section 3698.5. Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981, added “all of the following” after “specify” in the first sentence; and added “the date of sale, the amount for which the property was sold,” after “purchaser,” and deleted “subdivision (c)” before “of Section” in subdivision (d). Stats. 1983, Ch. 1224, in effect January 1, 1984, substituted “in accordance with law” for “at public auction” after “property” in subdivision (b); and added “and” after “sale”, and deleted “and a statement that the property was sold in accordance with the provisions of Section 3698.5” after “sold” in subdivision (d). Stats. 1984, Ch. 988, in effect September 11, 1984, substituted subdivisions (a) and (b) for former subdivisions (a) and (b). Stats. 1985, Ch. 316, effective January 1, 1986, deleted “at public auction” after “property”, in subdivision (b); substituted “If a” for “That no” before “taxing agency objected” and substituted “the fact of the objection . . . agency” for “(If a taxing agency . . . sale).” in subdivision (c).

Note.—Section 7 of Stats. 1979, Ch. 615, provided that Sections 1, 2, 2.1, 2.2, and 2.5 of this act shall apply with respect to the sale of tax-deeded property which is approved by resolution of the board of supervisors pursuant to Section 3699 of the Revenue and Taxation Code after the effective date of this act. Section 8 thereof provided no payment by state to local governments because of this act.

Note.—See note following Section 2194.

Incorrect amount.—The recital of an incorrect amount as the sales price does not render a deed void. *Roland v. Southern Title and Trust Co.*, 65 Cal.App.2d 272.

3711. Deed as evidence. Except as against actual fraud, the deed duly acknowledged or proved is conclusive evidence of the regularity of all proceedings from the assessment of the assessor to the execution of the deed, both inclusive.

Deed alone does not prove title.—This section does not enable the purchaser in a quiet title action brought by him to establish his case merely by introducing the deed from the State, but he must also introduce the deed to the State. *Swann v. Carson*, 56 Cal.App.2d 502; *De Flon v. Van Lue*, 83 Cal.App.2d 288; *Litchfield v. Marin County*, 83 Cal.App.2d 730; *Elbert, Ltd. v. Hall*, 101 Cal.App.2d 208. In accord, *Roma v. Elbert, Ltd.*, 73 Cal.App.2d 338, also holding that a property owner must repay taxes paid by the purchaser at tax sale where the property owner seeks affirmative equitable relief.

Retroactive application.—This section cannot apply to deprive a person of a vested right that was transferred to him before passage of the section from the individual who owned the property at the beginning of the tax delinquency proceedings. *Hall v. Chamberlain*, 31 Cal.2d 673.

Deputy may acknowledge.—The deed may be acknowledged before a deputy tax collector who is also a deputy county clerk. *Markowitz v. Carpenter*, 94 Cal.App.2d 667; *Bell v. Towns*, 95 Cal.App.2d 398.

Jurisdictional defects.—This section does not apply to irregularities of a jurisdictional nature. *Sheeter v. Lifur*, 113 Cal.App.2d 729; *United States v. Blaylock*, 159 F.Supp. 874; *Sinclair & Valentine Company, Inc. v. Los Angeles County*, 201 Cal.App.3d 1021.

3712. Title conveyed. The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except:

(a) Any lien for installments of taxes and special assessments, which installments will become payable upon the secured roll after the time of the sale.

(b) The lien for taxes or assessments or other rights of any taxing agency which does not consent to the sale under this chapter.

(c) Liens for special assessments levied upon the property conveyed which were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property, and, where a taxing agency which collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to the taxing agency.

(d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.

(e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property or any interest therein for a public purpose.

(f) Unpaid assessments under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) which are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

(g) Any federal Internal Revenue Service liens which, pursuant to provisions of federal law, are not discharged by the sale, even though the tax collector has provided proper notice to the Internal Revenue Service before that date.

(h) Unpaid special taxes under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

History.—Stats. 1941, p. 2464, in effect July 1, 1941, revised subsection (c) and added subsection (d). Stats. 1943, p. 1937, in effect August 4, 1943, added “special” to subsection (a). Stats. 1945, p. 2194, substituted “payable upon the secured roll” for “due” in subsection (a). Stats. 1972, p. 1257, in effect March 7, 1973, added subsection (e). Stats. 1976, Ch. 113, p. 175, in effect January 1, 1977, added subsection (f). Stats. 1985, Ch. 316, effective January 1, 1986, substituted “tax-defaulted property” for “property from the sale to the state” after “redeem the”, substituted “the” for “such” after “redeem from sale to” in subdivision (c); deleted “of this division” after “Part 8” in subdivision (f). Stats. 1988, Ch. 830, in effect January 1, 1989, added subdivision (g). Stats. 1990, Ch. 992, in effect January 1, 1991, added “taxes and” after “installments of” in subdivision (a). Stats. 1997, Ch. 946 (AB 1224), in effect January 1, 1998, added subdivision (h).

Note.—Section 31 of Stats. 1988; Ch. 830, provided that this act shall be applicable to the 1989–90 fiscal year and fiscal years thereafter.

Applicable to chartered cities.—Article XI, Section 6, of the State Constitution, authorizing chartered cities “to make and enforce all laws and regulations in respect to municipal affairs,” does not preclude the application of this section to tax-deeded property within a chartered city having its own system of taxation. *Brewer v. Feigenbaum*, 47 Cal.App.2d 171.

Purchase by street bond holder.—Merger.—The purchase of tax-deeded property by the owner of a street bond issued against the property does not necessarily result in a merger of estates and title, so as to bar an action for the foreclosure of the bond. Whether a merger results is a question of intention. *Newman v. Hye*, 64 Cal.App.2d 296.

Deeds from two agencies.—In a case where one person holds title by deed after foreclosure sale of street improvement bonds and another holds title by deed from the state based on prior sale for nonpayment of delinquent general taxes, neither person has rights superior to the other, and the two are deemed to hold the property as tenants in common subject to an equitable lien in favor of each to the extent of the purchase price paid by him. *Monheit v. Cigna*, 28 Cal.2d 19; *Zaslow v. Kroenert*, 29 Cal.2d 541, 878; *Security Investment Co. v. Douglas*, 76 Cal.App.2d 592; *Oswald v. Salter*, 77 Cal.App.2d 599; *Milkes v. Smith*, 91 Cal.App.2d 79; *Sterling Co. v. Garrett*, 108 Cal.App.2d 891; *Elbert, Ltd v. Gawn*, 111 Cal.App.2d 610; *Kipp v. Kipp*, 42 Cal.2d 724; *Elbert, Ltd. v. Federated Income Properties*, 120 Cal.App.2d 194. See also *Cate v. Bourzac*, 74 Cal.App.2d 422, wherein purchasers of property sold for delinquent county taxes and purchasers of the same property sold for delinquent irrigation district assessments were likewise held to own the property as tenants in common where applicable statutes did not establish a priority between general tax liens and special assessment liens.

The interest represented by a certificate of sale issued by a city upon the sale of property for a delinquent street assessment is not a lien within the meaning of Section 2911 of the Civil Code, providing for the presumed extinction of assessment liens within a specified period, and a tax deed based thereon, issued after the expiration of the period is valid and on a parity with a tax deed issued by the state in the interim. *Stafford v. Realty Bond Service Corp.*, 39 Cal.2d 797.

Where one tax deed was issued before the lien arose in pursuance of which the other deed was issued, the deeds are not on a parity, and the earlier deed is subject to future liens and tax deeds based thereon. *Elbert, Ltd. v. Barnes*, 107 Cal.App.2d 659.

The deed issued by a city at a private sale made pursuant to a declaration of delinquent municipal taxes, where the court found the sale invalid, is not on a parity with the tax deed issued by a county pursuant to a delinquent tax sale more than 15 years before. *Callan v. City of San Bruno*, 121 Cal.App.2d 735.

Deed from one agency and lien from another.—Title obtained by an irrigation district through sale, for nonpayment of assessments levied by the district, of land subject to the pre-existing lien of bonds of a sanitary district is subject to the lien of the bonds and the right of the bondholder upon foreclosure to hold and own the property as a tenant in common with the irrigation district under the equal parity rule. *Imperial Irrigation District v. Varney*, 87 Cal.App.2d 264.

In a partition action between a holder of liens on three lots for unpaid street improvement bonds and holders of title by deed from the state for nonpayment of delinquent county and city taxes on the lots the bondholder’s enforcement of his existing liens is the measure of his maximum interest in the property, and he cannot participate in a proration of the excess proceeds under any theory of a tenancy in common. *Elbert, Ltd. v. Nolan*, 32 Cal.2d 610.

Franchise tax lien.—A lien for franchise taxes attaching to the property under Section 29 of the Bank and Corporation Franchise Tax Act does not fall under the exception in (b) or under any of the other exceptions in this section and is therefore extinguished by the deed from the State. *Connors v. Jerome*, 83 Cal.App.2d 330.

Prior contract liens.—All prior contract liens against the property are extinguished by the deed from the state. *Elbert, Ltd. v. Aleinick*, 102 Cal.App.2d 169.

Tax on public road.—A public road is not subject to tax and a tax deed based thereon is void and does not establish that the property was not a public road. *Gaspard v. Edwin M. LeBaron, Inc.*, 107 Cal.App.2d 356.

Estoppel.—A purchaser at a tax sale did not receive a title superior to that of a chattel mortgagee, who based his title on an earlier foreclosure sale, where the purchaser had been under a legal obligation to pay the delinquent taxes. Rather, his purchase of the tax-deeded property was considered merely a mode of paying the taxes. *Weisberg v. Loughridge*, 253 Cal.App.2d 416.

3713. Parity of deeds. It is hereby declared to be the policy of the state and the intent of the provisions of this code, that the final tax deed or deeds of all taxing agencies, including counties, cities and counties, cities, irrigation districts, reclamation districts, and other taxing agencies that annually levy, assess, and collect, or cause to be collected, taxes or assessments upon real property within the state, should be, and are hereby declared to be, upon a parity with each other, and that regardless of when the levy of those taxes or assessments is or has been made, and regardless of when the final tax deed or assessment deed is or has been taken by the taxing agency, that the rights of all taxing agencies and all those deeds shall be equal and upon a parity with each other.

History.—Added by Stats. 1979, Ch. 1188, in effect September 30, 1979, operative on January 1, 1980. Stats. 1984, Ch. 988, in effect September 11, 1984 renumbered the section which was formerly Section 3519. Stats. 1985, Ch. 316, in effect January 1, 1986 renumbered the section which was formerly Section 3517, and substituted “of” for “in” after “provision’s”, deleted “contained” after “code”, added “,” after “assess,” substituted “those” for “such” after “levy of,” substituted “the” for “such” after “taken by” and substituted “those” for “such” after “and all.”

3715. Sale to be reported to Controller. [Repealed by Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981.]

3715. Sale to be reported to Controller. [Repealed by Stats. 1998, Ch. 497 (SB 2233) in effect January 1, 1999.]

3716. Report to assessor. Within 10 days after the sale, the tax collector shall report to the assessor the following:

- (a) The name of the purchaser.
- (b) The date of sale.
- (c) The amount for which the property was sold.
- (d) The description of the property conveyed.

History.—Stats. 1943, p. 1937, in effect August 4, 1943, substituted “and” for “or” in subdivision (b). Stats. 1955, p. 837, in effect September 7, 1955, deleted “and recorder” after “assessor”. Stats. 1987, Ch. 1184, in effect January 1, 1988, operative July 1, 1988, deleted “and, if executed of the deed to the purchaser” after “sale” in subdivision (b), and deleted former subdivision (e), which provided “The numbers and dates of the certificate of sale to the state and of the deed to the state.”

3717.5. Notations on roll. The tax collector shall note the fact and date of a sale under this chapter on the margin of each delinquent and current roll on which the property appears, opposite the property sold. Any charges against the collector having custody of the delinquent and current rolls shall be reduced accordingly.

History.—Stats. 1943, p. 1937, in effect August 4, 1943, added reference to current roll in first sentence. Stats. 1974, Ch. 1101, p. 2344, in effect January 1, 1975, substituted “tax collector” for “redemption officer” in the first sentence, and substituted “collector” for “officer” in the second sentence.

3718. Deposit of proceeds; reports. The tax collector shall deposit the money received from the sale like tax collections and shall immediately transmit a report of sale to the county treasurer and a duplicate of the report to the county auditor. The report shall show:

- (a) The cost of advertising the sale, including but not limited to the published notice required by Section 3702.
- (b) The sums received for individual parcels.

(c) Identification of the parcels by year, page and number of the delinquent and current roll.

(d) The cost of recording the deeds.

History.—Stats. 1943, p. 1938, in effect August 4, 1943, added reference to current roll in subdivision (c). Stats. 1947, p. 1631, in effect September 19, 1947, substituted present subdivision (a) for “The expenses of the county in making the sale.” Stats. 1951, p. 1762, in effect September 22, 1951, added subdivision (d). Stats. 1959, p. 2481, in effect September 18, 1959, deleted “including any installment of the purchase price,” before “like tax collections.” Stats. 1975, Ch. 1053, p. 2493, in effect January 1, 1976, added the balance of subdivision (a) after “sale”.

3719. Delinquent tax sale trust fund. The amount of the cost of advertising the sale, including but not limited to the published notice required by Section 3702, shall be deposited in the county general fund and the balance, excepting the recorder’s fee, shall be deposited in the delinquent tax sale trust fund.

History.—Stats. 1947, p. 1631, in effect September 19, 1947, substituted “the cost of advertising” for “expenses in making.” Stats. 1951, p. 1762, in effect September 22, 1951, added “excepting the recorder’s fees.” Stats. 1975, Ch. 1053, p. 2493, in effect January 1, 1976, added “, including but not limited to the published notice required by Section 3702,” after “sale”.

3720. Report to other taxing agencies. On receipt of the duplicate report of sale, the auditor shall mail a copy of it to the secretary or clerk of the governing board of each taxing agency, not also a revenue district, and other than the State and the county, entitled to levy taxes or assessments on the property sold. He shall also enclose a notice for claims, specifying:

(a) A description of the property.

(b) That claims on the amount received from the sale shall be made within 60 days after the mailing of the notice for claims.

Such duplicate copies of report of sale shall be mailed for only those properties on which the taxing agency has consented to sale and thus is entitled to its proper share of the proceeds deposited in the delinquent tax sale trust fund.

History.—Stats. 1941, p. 3116, in effect September 13, 1941, eliminated requirement that copy be mailed to Controller, and included State in exception. Stats. 1951, p. 1629, in effect September 22, 1951, added “not also a revenue district, and” to first sentence, and last paragraph.

3721. Share claims. On receipt of the notice for claims, the governing board of each taxing agency, not also a revenue district, having taxes or assessments levied on the property for the fiscal year preceding that in which the property was sold, shall forward a share claim to the county auditor, stating, in detail, the amounts due on the property still unpaid to the taxing agency, claiming their share of the proceeds from the sale as is determined by the distribution made under this division. The claim shall set out all the municipal and special district tax rates applicable to the deeded property for the fiscal year preceding that in which the property was sold.

History.—Stats. 1941, p. 3117, in effect September 13, 1941, eliminated reference to forwarding of share claim by Controller. Stats. 1951, p. 1629, in effect September 22, 1951, added “not also a revenue district,” “for the fiscal year preceding that in which the property was sold by the State,” and the balance of the section beginning “claiming their share.” Stats. 1985, Ch. 316, effective January 1, 1986, deleted “such” after “board of each”, deleted “by the State” after “sold” in first sentence; substituted “The” for “Such” before “claim” and deleted “by the State” after “sold” in second sentence.

3722. Presentation. As soon as practicable after the expiration of the time for filing claims, the county auditor shall present all share claims received by him to the board of supervisors.

3723. Disputed claims. If the board of supervisors dispute the correctness of any share claim, the money received from the sale of the parcel involved in the disputed claim shall remain in the delinquent tax sale trust fund until the settlement of the claim by agreement of the governing boards or officers of the taxing agencies having delinquent taxes or assessments on the parcel or by judgment of a court.

3724. Distribution. If the share claims are correct or if settlement is made of all disputed claims relating to any parcel, the board of supervisors shall order the money in the delinquent tax sale trust fund received from the sale of the parcel to be distributed under this division among the taxing agencies having filed share claims. There shall also be distributed to the State of California its share of the money received from the sale of the parcel. The auditor shall draw and mail warrants on the delinquent tax sale trust fund in accordance with the order, and the state's share shall be included in the next semiannual settlement between the county and the State.

Where the county assesses and collects taxes for a taxing agency which is also a revenue district, such taxing agency shall receive its share of the proceeds from any sale as distributed under Chapter 1.3, Part 8, Division 1, of this code, without the necessity of their receiving a copy of the report of sale or of submitting a share claim.

History.—Stats. 1941, p. 3117, in effect September 13, 1941, added second sentence and last clause of last sentence of first paragraph. Stats. 1951, p. 1629, in effect September 22, 1951, added second paragraph.

3725. Contesting validity. A proceeding based on alleged invalidity or irregularity of any proceedings instituted under this chapter can only be commenced within one year after the date of execution of the tax collector's deed.

Sections 351 to 358, inclusive, of the Code of Civil Procedure do not apply to the time within which a proceeding may be brought under this section.

History.—Stats. 1988, Ch. 830, in effect January 1, 1989, added second paragraph.

Excessive tax rate.—A taxpayer claiming excessive tax levies is relegated to the procedure for correction of the levy at an appropriate time or to an action for refund of the excessive portion of the tax and he may not avail himself of error in the tax rate in a quiet title action against the purchaser of title from the state. *Wall v. M. & R. Sheep Co.*, 33 Cal.2d 768.

Nonapplication of section.—This section does not apply in a quiet title action against the purchaser at a tax sale involving the question of the State's power to issue a tax deed to property in the constructive possession and exclusive control of a bankruptcy court. *Beck v. Unruh*, 37 Cal.2d 148.

This section does not apply to an action by the state to remove a tax deed as a cloud on its title to property devoted to a public use. *People v. Chambers*, 37 Cal.2d 552.

Waiver.—The one-year limitation for commencing suit is waived if not pleaded. *Sheeter v. Lifur*, 113 Cal.App.2d 729.

Application.—This section applies to action by the original tax-delinquent owner in possession. However, a quiet title action against the purchaser of a tax deed from the state is not barred by the statute of limitations provided in this section, if the state's deed is fatally defective. *Edwards v. City of Santa Paula*, 138 Cal.App.2d 375.

3726. Defense. A defense based on the alleged invalidity or irregularity of any proceeding instituted under this chapter can be maintained only in a proceeding commenced within one year after the date of execution of the tax collector's deed.

Application.—This section, as well as the other provisions of this chapter, apply only to attacks upon the validity of deeds from the State and not of deeds to it. *Oswald v. Salter*, 77 Cal.App.2d 599.

Nonjurisdictional defects.—Nonjurisdictional defects, such as the failure to give notice of sale within the statutory period, cannot be raised after the time set forth in this section by an owner not in actual or constructive possession. *Dierssen v. Schmidt* 102 Cal.App.2d 743.

Nonapplication.—This section does not apply in a quiet title action by the tax deed holder where the defense is that the interest conveyed is not the same interest as that of the delinquent owner. *Alma Investment Co. v. Krausse*, 117 Cal.App.2d 740.

3727. Quieting title. Whenever property has been purchased at tax sale, the purchaser or any other person claiming through the purchaser may bring suit to quiet title to all or any portion of the property and prosecute it to final judgment.

History.—Added by Stats. 1939, Ch. 154, effective January 1, 1940. Stats. 1985, Ch. 316, effective January 1, 1986, deleted “tax deeded” after “whenever”, substituted “at tax sale” for “from the state” following “purchased”, substituted “the purchaser” for “him” following “claiming through”, deleted “against the state” following “bring suit.”

Note.—Service of process in such actions is made under Section 160.

3728. Payments by former owner. Before holding any tax deed heretofore or hereafter given under this chapter or Chapter 8 (commencing with Section 3771), former Chapter 3 (commencing with Section 3475), former Chapter 4.3 (commencing with Section 3534), or former Sections 3897 and 3897d of the Political Code to be void, the court shall determine the correct amount of taxes, penalties and costs that should be paid upon redemption to discharge the tax and assessment liens of all taxing agencies and revenue districts had the purported tax sale not been held and the court shall order the former owner or other party in interest to pay that amount within six months as follows:

(a) To the purchaser, or his or her grantee or successor in interest, the amount of taxes, penalties and costs expended by him or her as determined by the court in pursuit of title to the property, and when the purchaser at that sale or the grantee in any deed for taxes or his or her grantee or successor in interest is in possession of that property in good faith and claiming the property under a tax deed, which is regular upon its face, and has made permanent improvements thereon, the court shall not make that decree until there has also been repaid to the purchaser or his or her grantee or successor in interest a sum, as determined by the court, equal to the amount by which the value of the property has been enhanced by those permanent improvements; and

(b) To the county tax collector, the balance, if any, of the correct amount as determined by the court that should be paid upon redemption, which shall be distributed by the county to the taxing agencies and revenue districts as redemption money.

If the amounts are not paid in accordance with the order the court shall not hold the tax deed void.

History.—Original section required reimbursement of purchaser as now specified in subdivision (a) before a forfeiture be decreed. Stats. 1945, p. 1024, in effect September 15, 1945, repealed original section and added present provisions. Stats. 1949, p. 1494, in effect October 1, 1949, amended subdivision (a) by adding “or his grantee or successor in interest” following “to the purchaser” and adding the balance of the subdivision commencing “and when the purchaser.” Stats. 1983, Ch. 1281, in effect September 30, 1983, substituted “Chapter 8 . . . Political Code” for “Chapters 3, 4.3 or 8 of this part or former Political Code Sections 3897 and 3897d” after “chapter or” in the first sentence; added “or her” after every “his” or “him” in subsection (a), and made grammatical changes throughout the section. Stats. 1985, Ch. 316, effective January 1, 1986, deleted “the state’s” which followed “in pursuit of” in subdivision (a).

Construction.—This section and Section 3728.1 do not apply when the tax-deeded land is owned by the state and exempt from taxation. *People v. Chambers*, 37 Cal.2d 552.

Does not cover expenditures subsequent to tax deed.—Inasmuch as this section applies only to amounts paid “in pursuit of the state’s title to the property,” it does not permit a recovery of taxes levied subsequent to the sale and paid by the purchaser (*Butterfield v. Union Hollywood Water Co.*, 39 Cal.App. 605), or of amounts expended by the purchaser for improvements or betterments (*Numitor Gold Mining Co. v. Katzer*, 83 Cal.App. 161), or for repairs, maintenance, and management of the property. *Clayton v. Schultz*, 18 Cal.2d 328. In a proceeding to compel the purchaser to account for the rentals received by him, however, he is entitled to offset all amounts expended by him for taxes and for the maintenance and management of the property. *Clayton v. Schultz*, *supra*.

Cf. *Holland v. Hotchkiss*, 162 Cal. 366 and *Squire v. Estey*, 33 Cal.App. 287, holding, prior to the enactment of any statutory provision on the subject, that the owner was not entitled to a judgment quieting his title except upon the condition that he reimburse the purchaser for “the taxes, penalties, interest and costs justly chargeable upon the land and which the purchaser has paid at the sale, or afterward upon the faith of it.”

Purchaser cannot compel reimbursement.—The owner is compelled to reimburse the purchaser only as a condition to securing affirmative relief against the void tax sale. *Newcomb v. City of Newport Beach*, 12 Cal.2d 235; *Biaggi v. Mainero*, 60 Cal.App. 608; *Roma v. Elbert, Ltd.*, 73 Cal.App.2d 338. Upon the owner’s failure to reimburse the purchaser the latter is not entitled to an adjudication that he owns the land, but the court should merely deny any relief to the owner. *Newcomb v. City of Newport Beach*, *supra*. See, however, Section 3728.1.

Must account for rentals.—The purchaser is accountable for rentals collected during his period of possession. *Clayton v. Schultz*, 4 Cal.2d 425; 18 Cal.2d 328.

3728.1. New tax deed to be issued on nonpayment. If the amount required to be paid in accordance with Section 3728 of this code is not paid within such six months, the court shall order a new tax deed issued by the county tax collector to the original grantee or his successor in interest as designated in the order. The tax collector shall thereupon execute and deliver a new tax deed which in addition to the usual provisions of a deed conveying real property shall specify:

(a) The oldest year in which a tax lien attached which has not been discharged.

(b) That the court ordered the payment of the correct amount of taxes, penalties and costs, stating the title of the court, the number of the case, the date of the order and the total amount of such taxes, penalties and costs so ordered paid.

(c) That such payment has not been made as ordered by the court.

(d) If the original assessment description was erroneous, the correct description as determined by the court.

Upon proof of the execution and delivery of such tax deed the court shall quiet the title of the grantee and his successors in interests and after such judgment becomes final the tax deed shall be conclusively presumed valid against the claims of any parties to the lawsuit and their successors in interest.

History.—Added by Stats. 1945, p. 1024, in effect September 15, 1945.

3729. Refunds from county. (a) When a court holds a tax deed given under this chapter or Chapter 8 (commencing with Section 3771), former Chapter 3 (commencing with Section 3475), former Chapter 4.3 (commencing with Section 3534), or former Sections 3897 and 3897d of the Political Code void, the purchaser at tax sale is entitled to a refund from the county of the amount paid as the purchase price in excess of the amount for which he or she has been reimbursed for taxes, penalties, and costs. The refund shall be made in the same manner as a refund of an overpayment of tax, except that the claim shall be presented within one year after the judgment becomes final.

(b) The holder of a tax certificate who received all or any part of the amount paid by the delinquent taxpayer shall not be obligated to make any refund or repayment of any amount to either the purchaser, the county, or any other person. The tax collector may use amounts on deposit in the Tax Certificate Redemption Fund to make the refund, but only to the extent those amounts were paid to the holder of the applicable tax certificate.

History.—Stats. 1945, p. 1025, in effect September 15, 1945, revised first sentence and substituted “judgment” for “decree.” Stats. 1957, p. 768, in effect September 11, 1957, deleted Chapter “3” and added “or former Chapter 3.” Stats. 1983, Ch. 1281, in effect September 30, 1983, substituted “Chapter 8 . . . Political Code” for “Chapters 4.3 or 8 or former Chapter 3 of this part or under former Political Code Sections 3897 and 3897d” after “chapter or” in the first sentence. Stats. 1985, Ch. 316, effective January 1, 1986, substituted “at tax sale” for “from the state” following “the purchaser”, added “the” after “paid as”, and added “or she” after “he” in first sentence. Stats. 1995, Ch. 189, in effect July 24, 1995, added subdivision letter designation (a) before first paragraph, and added subdivision (b).

Premature filing of claim.—A claim filed prior to a final adjudication of the invalidity of the tax title is premature, and an action against the county may not be founded thereon. *Coleman v. Los Angeles County*, 180 Cal. 714.

County not bound by adjudication.—In fixing the amount of the refund the county is not bound by the amount of the reimbursement required of the former owner and any amount erroneously omitted therefrom is not required to be refunded by the county. *Coleman v. Los Angeles County*, *supra*.

Exclusive statutory remedy.—A purchaser of tax-defaulted property from a public entity at a tax sale seeking rescission and restitution of purchase money is not entitled to relief based on common law causes of action but rather, is limited to those remedies provided by the Revenue and Taxation Code. The purchaser is entitled to a refund of purchase money paid only where a court determines a tax deed is void or that the property “should not have been sold”. *Van Petten v. San Diego County*, 38 Cal.App.4th 43.

3730. Other refunds. [Repealed by Stats. 1985, Ch. 316, effective January 1, 1986.]

3730.1. Statute of limitations. [Repealed by Stats. 1985, Ch. 316, effective January 1, 1986.]

3731. Refunds following quitclaim deed. [Repealed by Stats. 1985, Ch. 316, effective January 1, 1986.]

3731. Rescinding of sale. (a) When a tax deed to a purchaser of property sold by the tax collector pursuant to this part is recorded and it is determined that the property should not have been sold, the sale may be rescinded by the board of supervisors with the written consent of the county legal adviser and the purchaser of the property under any of the following circumstances:

(1) The property has not been transferred or conveyed by the purchaser at the tax sale to a bona fide purchaser for value.

(2) The property has not become subject to a bona fide encumbrance for value subsequent to the recordation of the tax deed.

(b) When the sale of tax-defaulted property is rescinded pursuant to subdivision (a), the purchaser is entitled to a refund of the amount paid as the purchase price after the purchaser executes a rescission of the tax deed. The rescission shall also be executed by the county tax collector. The signatures of the purchaser and the county tax collector shall be acknowledged by the county clerk, without charge, and the county tax collector shall then record the rescission with the county recorder, without charge. When the rescission is recorded, the tax deed becomes null and void as though never issued and all provisions of law relating to tax-defaulted property shall apply to the property.

(c) The holder of a tax certificate who received all or any part of the amount paid by the purchaser shall not be obligated to make any refund or repayment of any amount to the purchaser, the delinquent taxpayer, the county, or any other person. The tax collector may use amounts on deposit in the Tax Certificate Redemption Fund to make the refund, but only to the extent those amounts were paid to the holder of the applicable tax certificate.

History.—Added by Stats. 1985, Ch. 316, effective January 1, 1986. Stats. 1986, Ch. 1420, effective January 1, 1987, substituted “part” for “chapter” after “this” in the first paragraph of subdivision (a), and deleted former subsection (a)(3) thereof, which provided that “A guarantee or certificate of title respecting the property has not been issued subsequent to the recordation of the tax deed.” Stats. 1995, Ch. 189, in effect July 24, 1995, added subdivision (c). Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, deleted the former fourth sentence of subdivision (b) which provided that after recordation, a copy of the recision shall be forwarded to the Controller.

Exclusive statutory remedy.—A purchaser of tax-defaulted property from a public entity at a tax sale seeking recision and restitution of purchase money is not entitled to relief based on common law causes of action but rather, is limited to those remedies provided by the Revenue and Taxation Code. The purchaser is entitled to a refund of purchase money paid only where a court determines a tax deed is void or that the property “should not have been sold”. *Van Petten v. San Diego County*, 38 Cal.App.4th 43.

3731.1. Resolution by board of supervisors to authorize action by county officer. The board of supervisors of any county may, by resolution, authorize any county officer to perform on its behalf any act required or authorized to be performed by the board of supervisors under Section 3731.

The resolution shall enumerate the section, or those portions of the section, to which the authorization is to apply, and shall specify administrative rules and procedures concerning any act performed under the authorization.

The resolution shall require that the county auditor record each act performed under the authorization. The resolution may provide for review by the board of supervisors of any act performed under the authorization, or for periodic reports to the board of supervisors of any or all acts performed under the authorization, or both.

History.—Added by Stats. 1983, Ch. 1224, in effect January 1, 1984. Stats. 1985, Ch. 316, effective January 1, 1986, deleted “3730, 3730.1, or” following “Section” in first paragraph.

CHAPTER 8. DEED TO STATE, COUNTY OR PUBLIC AGENCIES

- Article 1. General provisions. §§ 3771-3776.
- 2. Purchase from the State. §§ 3791-3814.
- 3. Sales between taxing agencies. § 3841.

Article 1. General Provisions

- § 3771. “Taxes.”
- § 3772. “Taxing agency.” “Governing body.”
- § 3772.5. “Low-income persons”.
- § 3773. Right of taxing agencies.
- § 3774. State’s rights.
- § 3775. Price on purchase by county or State.
- § 3776. Deposit into tax certificate redemption fund.

3771. “Taxes.” As used in this chapter, “taxes” includes assessments.

3772. “Taxing agency.” “Governing body.” As used in this chapter, “taxing agency” includes a county treasurer acting as trustee for a reclamation district and the “governing body” of a taxing agency includes such a county treasurer acting with the consent of the board of trustees of the reclamation district.

3772.5. “Low-income persons”. For purposes of this chapter:

(a) “Low-income persons” means persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code.

(b) “Nonprofit organization” means a nonprofit organization incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code for the purpose of acquisition of either of the following:

(1) Single-family or multifamily dwellings for rehabilitation and sale or rent to low-income persons, or for other use to serve low-income persons.

(2) Vacant land for construction of residential dwellings and subsequent sale or rent to low-income persons, for other use to serve low-income persons, or for dedication of that vacant land to public use.

(c) “Rehabilitation” means repairs and improvements to a substandard building, as defined in Section 17920.3 of the Health and Safety Code, necessary to make it a building that is not a substandard building.

History.—Added by Stats. 1977, Ch. 1120, in effect January 1, 1978. Stats. 1979, Ch. 1191, in effect January 1, 1980, substituted “of low or moderate income, as defined by Section 50093 of the Health and Safety Code” for “whose income does not exceed 120 percent of area median income, with adjustments for family size, as determined from time to time by the Secretary of Housing and Urban Development pursuant to subsection (f) of Section 8 of the Housing and Community Development Act of 1974 (P.L. 93-383)” in the first sentence, and substituted “Part 2” for “Part 1” and “5110” for “9000” in the second sentence. Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981, substituted “of either of the following:” for “and rehabilitation of single-family dwellings for sale to low-income persons.” after “acquisition”, and added subdivisions (a) and (b). Stats. 1997, Ch. 477 (SB 219), in effect January 1, 1998, substituted “For purposes of” for “As used in” before “this chapter” in the first sentence and substituted a colon for a comma after “this chapter” in the first sentence; created new subdivision (a) with the balance of the former first sentence commencing with “ “Low-income persons” ”; created subdivision (b) with the former second sentence; renumbered former subdivision (a) as paragraph (1) of newly designated subdivision (b) and added “or multifamily” after “Single-family”, added “or rental” after “sale” and added “, or for other use to serve low-income persons” after the first “low-income persons” in the first sentence therein; renumbered former subdivision (b) as paragraph (2) of newly designated subdivision (b) and added “or rental” after “sale”, added “or for other use to serve low-income persons,” after the first “low-income persons”, added “for” after the second “or”, and substituted “that” for “such” after “dedication of” in the first sentence therein; and lettered the former second sentence of former subdivision (b) as subdivision (c). Stats. 1998, Ch. 485 (AB 2803), in effect January 1, 1999, substituted “rent” for “rental” after “sale or” twice in paragraph (1) and (2) of subdivision (b). Stats. 1999, Ch. 83 (SB 966), in effect January 1, 2000, substituted “Section 17920.3” for “subdivision (f) of Section 17920” after “defined in”, and substituted “that” for “which” after “building” in the first sentence of subdivision (c).

3773. Rights of taxing agencies. Whenever property becomes subject to a power of sale pursuant to Section 3691 for taxes, including taxes levied by a city or any taxing agency or for a revenue district the taxes of which are collected by county officers, the city or taxing agency or revenue district has all the rights under this chapter of a taxing agency to which property has been deeded for taxes.

History.—Original section referred only to cities. Stats. 1943, p. 2427, in effect August 4, 1943, added references to taxing agencies and revenue districts. Stats. 1985, Ch. 316, effective January 1, 1986, substituted “property becomes . . . Section 3691” for “a deed to the State”, after “whenever,” substituted “including” for “includes” after “for taxes.”

3774. State’s rights. The State has all the rights under this chapter of a taxing agency to which property has been deeded for taxes.

History.—Added by Stats. 1943, p. 2428, in effect August 4, 1943.

3775. Price on purchase by county or State. Whenever the county or the State is the purchaser the price shall be agreed upon between the county board of supervisors and the State Controller and the governing body of any city in which such property may be located and such price shall be paid to the county tax collector for distribution.

History.—Added by Stats. 1943, p. 2428, in effect August 4, 1943.

3776. Deposit into tax certificate redemption fund. Notwithstanding anything to the contrary, no parcel for which a tax certificate has been sold and not canceled shall be sold or deeded to any taxing agency unless the taxing agency deposits into the applicable tax certificate redemption fund, held by the tax collector, the total amount required to be paid to the holder of the tax certificate pursuant to Section 4527.

History.—Added by Stats. 1995, Ch. 189, in effect July 24, 1995. Stats. 1996, Ch. 699, in effect January 1, 1997, substituted “Notwithstanding” for “(a) Except as provided in subdivision (b), notwithstanding”, and substituted “fund, held by the tax collector, the total amount” for “fund the amount” in the first sentence; and deleted former subdivision (b) which provided “(b) A parcel for which a tax certificate has been sold and not canceled may be sold to any governmental entity for a public use if that entity pays the amount owed to the holder of the tax certificate at the time of the sale.”.

Article 2. Purchase from the State

- § 3791. Purchase by taxing agency from county.
- § 3791.3. Purchase by State, county, revenue district, or redevelopment agency.
- § 3791.4. Purchase by nonprofit organization.
- § 3791.5. Payments in lieu of taxes.
- § 3792. Joint purchase.
- § 3793. Contents of agreement.
- § 3793.1. Sales price.
- § 3793.5. Division of proceeds. [Repealed.]
- § 3793.6. Taxing agency’s expenses. [Repealed.]
- § 3794. Option limitation.
- § 3794.2. Description to be checked. [Repealed.]
- § 3795. Controller’s approval.
- § 3795.5. Agreement with nonprofit organization.
- § 3796. Notice.
- § 3797. Contents of notice.
- § 3798. Publication.
- § 3798.1. Publication in newspaper not required, when.
- § 3799. Mailing.
- § 3800. Cost.
- § 3801. Affidavit.
- § 3802. Agreement effective.
- § 3803. Redemption.
- § 3804. Deed to purchaser.
- § 3804.2. Corrected deed.
- § 3805. Contents of deed.
- § 3806. Effect of deed.
- § 3807. Terminating redemption right. [Repealed.]
- § 3807.3. Purchaser’s report to tax collector upon resale. [Repealed.]
- § 3807.5. Reconveyance by taxing agency. [Repealed.]
- § 3808. Payment; distribution. [Repealed.]
- § 3808. Payment; distribution.
- § 3809. Contesting validity; statute of limitations.
- § 3810. Defense; statute of limitations.
- § 3811. Tax collector’s report to Controller.
- § 3813. Tax collector’s notations.
- § 3814. Disposition of purchase price. [Repealed.]

3791. Purchase by taxing agency from county. Whenever property tax defaulted for five years or more has been sold for taxes for two or more years or has been deeded for taxes to a taxing agency other than the state, the governing body of the taxing agency may, as provided in this article, make an agreement with the board of supervisors of the county in which the property is situated for the purchase of, or for an option to purchase, all or any of the

tax-defaulted property or any part thereof including a right-of-way or other easement. When a part of a tax-defaulted parcel is sold the balance continues subject to redemption, if the right of redemption has not been terminated, and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7 of this division, except that no application need be made.

History.—Stats. 1943, p. 1296, in effect August 4, 1943, added reference to sales for two or more years. Stats. 1945, p. 972, in effect September 15, 1945, added to the first sentence words beginning with “or part thereof,” and added second sentence. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “property tax defaulted for five years or more” for “tax-deeded property”, substituted “a taxing agency other” for “another taxing agency”, substituted “tax-defaulted” for “tax-deeded”, substituted “of” after “situated for the purchase”, and added hyphens in “right of way” in the first sentence; and substituted “tax-defaulted” for “tax-deeded” and substituted “Chapter 2 (commencing with Section 4131) of Part 7 of this division” for “Chapter 2, Part 7, Division 1 of this code” in the second sentence.

Note.—See note following Section 2194.

Constitutionality.—Retroactivity.—The provisions of this chapter are not void as special legislation. Furthermore, they may validly be applied to property deeded to the State prior to their enactment (as Political Code Section 3897d) in 1933, since they do not render the right of redemption more burdensome. The redemptioner has no such right in the method of disposition of tax-deeded property as would deprive the State of the power to change the method and terms of sale. *South San Joaquin Irrigation District v. Neumiller*, 2 Cal.2d 485.

3791.3. Purchase by State, county, revenue district, or redevelopment agency. Whenever property has been tax defaulted for five years or more, whether or not the property is subject to or has been sold or deeded for taxes to a taxing agency other than the state, the state, county, any revenue district the taxes of which on the property are collected by county officers, or a redevelopment agency created pursuant to the California Community Redevelopment Law, may purchase the property or any part thereof, including any right-of-way or other easement, pursuant to this chapter. A redevelopment agency, however, may only purchase such tax-defaulted property located within a designated survey area.

History.—Added by Stats. 1955, p. 843, in effect September 7, 1955. Stats. 1965, p. 3788, in effect September 17, 1965, added “or a redevelopment agency created pursuant to the California Community Redevelopment Law,” and added last sentence. Section 45 of the act provides: The Legislature finds and determines that all powers conferred upon redevelopment or urban renewal agencies under the sections repealed by this act could be exercised under other provisions of the Community Redevelopment Law, and nothing in this act shall be construed as a determination by the Legislature to restrict or diminish such existing powers of redevelopment or urban renewal agencies. This act does not affect the powers of a redevelopment or urban renewal agency to carry out and complete any project initiated pursuant to the repealed sections prior to the effective date of this act. Stats. 1977, Ch. 1120, in effect January 1, 1978, added “a nonprofit organization proposing to rehabilitate and sell to low-income persons,”. Stats. 1979, Ch. 1188, in effect September 30, 1979, operative January 1, 1980, deleted “a nonprofit organization proposing to rehabilitate and to sell to low-income persons,” after “officers” in the first sentence. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “tax defaulted for five years or more” for “deeded to the state for taxes” in the first sentence, and substituted “tax-defaulted” for “tax deeded” after “such” in the second sentence.

Note.—Stats. 1955, p. 844, stated that the addition of Section 3791.3 does not constitute a change in, but is declaratory of, the existing law. Section 3791.4, now deleted, superseded this section until September 1, 1959.

Note.—See note following Section 2194.

3791.4. Purchase by nonprofit organization. (a) When residential or vacant property has been tax defaulted for five years or more, or three years or more after the property has become tax-defaulted and is subject to a nuisance abatement lien, that property may, with the approval of either the board of supervisors of the county in which it is located or that board’s designee, be purchased pursuant to this chapter by a nonprofit organization, provided that:

(1) In the case of residential property, the nonprofit organization shall rehabilitate and sell or rent to, or otherwise use the property to serve, low-income persons.

(2) In the case of vacant property, the nonprofit organization shall construct residential dwellings on the property and sell or rent the property to low-income persons, otherwise use the property to serve low-income persons, or dedicate the vacant property to public use.

(b) The terms and conditions of any conveyance to a nonprofit corporation pursuant to this section shall be specified in the deed or other instrument of conveyance.

History.—Added by Stats. 1979, Ch. 1188, in effect September 30, 1979, operative January 1, 1980. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “tax defaulted for five years or more, that” for “deeded to the state for nonpayment of taxes, such” in subdivision (a); and substituted “the property” for “tax-deeded property” in the first sentence of subdivision (b). Stats. 1997, Ch. 477 (SB 219), in effect January 1, 1998, added “or rent to, or otherwise use” after “sell” and added “serve,” after “property to” in the first sentence of paragraph (1), substituted “residential dwellings” for “a residential dwelling” after “construct”, added “or rent” after “sell”, and added “, or otherwise use the property to serve low-income persons,” after “low-income persons,” in the first sentence of paragraph (2) of subdivision (a); and deleted “(2)” after “two” in the first sentence of subdivision (b). Stats. 2000, Ch. 606 (AB 2229), in effect January 1, 2001, added “or three years or more after the property has become tax-defaulted and is subject to a nuisance abatement lien,” after “more,” added “, with the approval of either the board of supervisors of the county in which it is located or that board’s designee,” after “may”, and added a comma after “organization” in subdivision (a); deleted “either” after “shall” in paragraph (2); deleted former subdivision (b); and relettered former subdivision (c) as (b).

Note.—See note following Section 2194.

3791.5. Payments in lieu of taxes. Any agreement under this chapter may include a provision for payment to the county treasurer while the property is in public ownership and rented, leased or sold on contract by the taxing agency of an amount agreed upon by the board of supervisors and the taxing agency in lieu of taxes on such property.

Any payment in lieu of taxes, required by an agreement under this chapter, shall be received by the county tax collector and shall be distributed among the county and revenue districts of the county in the same manner as provided for the distribution of taxes in Section 4656.2.

History.—Added by Stats. 1943, p. 2504, in effect August 4, 1943. Stats. 1978, Ch. 430, in effect January 1, 1979, added the second paragraph.

3792. Joint purchase. If property tax defaulted for more than five years has been sold for taxes for two or more years or has been deeded for taxes to two or more taxing agencies, they may make a joint agreement with the board of supervisors under this article. The joint agreement may provide for the conveyance of all or any interest in the property to one of them or to any combination of them.

History.—Stats. 1943, p. 1296, in effect August 4, 1943, added reference to sales for two or more years. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “property tax-defaulted for more than five years” for “tax-deeded property.”

Note.—See note following Section 2194.

3793. Contents of agreement. Any agreement under this article may:

(a) Cover any tax-defaulted property without regard to the boundaries of the parcels which were assessed.

(b) Provide for sale of various portions of the property at various prices and on various terms and for an option to purchase any remaining portion.

History.—Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “tax-defaulted” for “tax-deeded” and substituted “which were assessed” for “in which it was deeded to the State” in subdivision (a). Stats. 1994, Ch. 705, in effect January 1, 1995, deleted former subdivision (c), which provided for the price and the terms for which the property may be purchased.

Note.—See note following Section 2194.

3793.1. Sales price. (a) The sales price of any property sold under this article shall include, at a minimum, the amounts of all of the following:

(1) All defaulted taxes and assessments, and all associated penalties and costs.

(2) Redemption penalties and fees incurred through the month of the sale.

(3) All costs of the sale.

(b) If the property or property interests have been offered for sale under the provisions of Chapter 7 (commencing with Section 3691) at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors or that board's designee, offer that property or those interests at a minimum price that the tax collector deems appropriate.

(c) The board of supervisors, or its designee, may permit a nonprofit organization to purchase property or property interests by way of installment payments.

History.—Added by Stats. 1994, Ch. 705, in effect January 1, 1995. Stats. 1998, Ch. 497 (SB 2233), in effect January 1, 1999, designated the first sentence of the first paragraph as subdivision (a); renumbered former subdivisions (a), (b), and (c) as paragraphs (1), (2), and (3) of subdivision (a), respectively, and added subdivision (b). Stats. 2000, Ch. 606 (AB 2229), in effect January 1, 2001, added "or that board's designee" after "supervisors", and deleted "at the next scheduled sale" after "interests" in subdivision (b); and added subdivision (c). Stats. 2001, Ch. 121 (SB 1183) in effect January 1, 2002, added "under the provisions of Chapter 7 (commencing with Section 3691)" after "offered for sale" in subdivision (b).

3793.5. Division of proceeds. [Repealed by Stats. 2000, Ch. 606, in effect January 1, 2001.]

History.—Added by Stats. 1941, p. 1440, in effect May 19, 1941. Stats. 1945, p. 1424, in effect September 15, 1945, revised last paragraph. Stats. 1947, p. 548, in effect September 19, 1947, added last sentence to first paragraph. Stats. 1951, p. 1630, in effect September 22, 1951, added third paragraph and substituted "Chapter 1.3" for "Chapter 1" in last paragraph. Stats. 1978, Ch. 430, in effect January 1, 1979, repealed section 3793.5 and added new section 3793.5. Stats. 1983, Ch. 1281, in effect September 30, 1983, substituted "4671" for "4670" after "Section", and deleted "of this division" after "Part 8" in subdivision (a). Stats. 1985, Ch. 316, effective January 1, 1986, deleted "from the state" after "acquired" in subdivision (a).

Time of sale by taxing agency.—This section only requires sale of the property to a private purchaser within two years after the execution of the deed to the taxing agency and not within two years after the agreement between the two taxing agencies. *Shoop v. Callan*, 88 Cal.App.2d 785.

3793.6. Taxing agency's expenses. [Repealed by Stats. 2000, Ch. 606, in effect January 1, 2001.]

History.—Added by Stats. 1941, p. 1441, in effect May 19, 1941.

3794. Option limitation. No option to purchase property under this article shall be given for longer than three years.

3794.2. Description to be checked. [Repealed by Stats. 2000, Ch. 606, in effect January 1, 2001.]

History.—Added by Stats. 1943, p. 1938, in effect August 4, 1943.

3795. Controller's approval. The agreement shall be submitted to the Controller. If he or she does not approve the agreement, he or she shall return the agreement to each party with a statement of his or her objections to it, and thereafter a new or modified agreement may be made. If the Controller approves the agreement, he or she shall sign the executed copy, return the signed agreement to the tax collector, and keep a copy on file in his or her office.

History.—Stats. 1959, p. 2481, in effect September 18, 1959, substituted “two additional executed copies” for “one additional executed copy” and inserted “one copy to the tax collector.” Stats. 2000, Ch. 606, (AB 2229), in effect January 1, 2001, substituted “The agreement” for “As many executed copies of the agreement as there are parties to it and two additional executed copies” in the first sentence; added “or she” after “he” and “or her” after “his” throughout, substituted “the agreement” for “a copy of it” after “return” in the second sentence; substituted “the” for “each” after “sign”, substituted “the signed agreement” for “one signed copy to each party, one copy”, and substituted “a” for “one executed” after “keep” in the third sentence.

3795.5. Agreement with nonprofit organization. In the case of an agreement involving a nonprofit organization, the board of supervisors may establish conditions of sale, including reporting, to assure the completion of rehabilitation within a reasonable time and maximum benefit to low-income persons. These conditions shall include, but are not limited to, the following:

(a) Requiring compliance with a jurisdiction’s consolidated plan or a community development plan.

(b) Articles of incorporation filed with the Secretary of State, stating that the organization is incorporated for the purposes specified in subdivision (b) of Section 3772.5.

History.—Added by Stats. 1977, Ch. 1120, in effect January 1, 1978. Stats. 2000, Ch. 606, (AB 2229), in effect January 1, 2001, substituted “board of supervisors” for “Controller” after “the”, and deleted “and may provide for reconveyance if the conditions are not met as provided in Section 3807.5.” after “persons” in the first sentence; and added “These conditions shall include, but are not limited to, all of the following:” after the first sentence, and added subdivisions (a), (b), and (c). Stats. 2002, Ch. 269 (SB 2085), in effect January 1, 2003, deleted “all of” after “limited to,” in the second sentence of the first paragraph; deleted former subdivision (a) which required “a certification of consistency with a consolidated plan approved by the Department of Housing and Development.”; and relettered former subdivisions (b) and (c) as subdivisions (a) and (b), respectively.

3796. Notice. By written authorization, the Controller shall then direct the county tax collector to cause notice of the agreement to be given.

3797. Contents of notice. The notice of agreement shall state:

(a) A description of the property substantially as described in the agreement.

(b) The name of the last assessee of the property. To ascertain the name of the last assessee of the tax-defaulted property an examination shall be made of the assessment of this property on the last equalized roll, or if this property does not appear thereon, the last previous roll on which it was assessed.

(c) That an agreement for the sale of the property or for an option to purchase it, or both, as the case may be, has been made by the board of supervisors of the county with the taxing agency or nonprofit organization named in the agreement and has been approved by the Controller.

(d) That a copy of the agreement is on file in the office of the board of supervisors.

(e) If the right to redeem the property has not already been terminated, there shall also be a statement that unless the property is redeemed before the agreement becomes effective, the right of redemption will cease.

(f) The date and time that the agreement will become effective.

(g) That parties of interest, as defined in Section 4675, have the right to file a claim with the county for any proceeds received by the tax collector under the agreement which are in excess of the liens and costs required to be paid from the proceeds.

(h) If excess proceeds result from the agreement, notice will be given to parties of interest pursuant to law.

History.—Stats. 1943, p. 1938, in effect August 4, 1943, added subdivision (e). Stats. 1945, p. 2195, in effect September 15, 1945, revised subdivision (b) to require only the name of the last assessee instead of the name of the assessee for each year for which there may be delinquent taxes. Stats. 1953, p. 2105, in effect September 9, 1953, added last sentence in subdivision (b). Stats. 1957, p. 2180, in effect September 11, 1957, deleted “or an installment plan of redemption is initiated” preceding “before” in subdivision (e). Stats. 1977, Ch. 1120, in effect January 1, 1978, added “or nonprofit organization” in subdivision (c). Stats. 1978, Ch. 430, in effect January 1, 1979, deleted the words “it is sold” in subdivision (e) and added the words “the agreement becomes effective”. Also subdivision “(f)” was added. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “tax-defaulted” for “tax-deeded” in the second sentence of subdivision (b), and added subdivisions (g) and (h).

Note.—See note following Section 2194.

3798. Publication. The notice of agreement shall be published once a week for three successive weeks in a newspaper of general circulation published in the county, or, if none, then by posting copies of the notice in three public places in the county.

History.—Stats. 1947, p. 2026, in effect September 19, 1947, deleted “at least” preceding “three successive weeks,” added “of general circulation,” substituted “three public” for “four conspicuous,” and deleted provision requiring notice to be posted on property and in nearest post office.

3798.1. Publication in newspaper not required, when. If in the judgment of the board of supervisors any property to be sold under this chapter would bring an auction less than the cost of publication in a newspaper, the publication may be made in the same manner as if there were no newspaper published in the county.

History.—Added by Stats. 1953, p. 2104, in effect September 9, 1953. Stats. 1955, p. 840, in effect September 7, 1955, substituted “would” for “will” and deleted “of the notice of intended sale” following second “publication.”

3799. Mailing. The tax collector shall mail a copy of the notice not less than 45 nor more than 60 days prior to the effective date of the agreement, by registered mail to the last assessee of each portion of the property and to parties of interest, as defined in Section 4675, at their last known address.

To ascertain the address of the last assessee of the property an examination shall be made of the assessment of this property on the rolls beginning with the year of delinquency to and including that of the last equalized roll. The tax collector shall make reasonable efforts to ascertain the identity and address of parties of interest.

It is not necessary to mail a copy of the notice to any party who files with the tax collector a written acknowledgment of receipt of a copy of the notice or a waiver of the notice. The validity of any sale under this chapter shall not be affected if the tax collector’s reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive mailed notice.

History.—Stats. 1947, p. 2026, in effect September 19, 1947, revised first paragraph to require mailing not less than 21 nor more than 28 days prior to effective agreement date instead of within five days after first publication of notice, and deleted provision for mailing where address unknown. Stats. 1953, p. 2106, in effect September 9, 1953, added second paragraph. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted “45” for “21” and “60” for “28”, added “and to parties . . . Section 4675”; after “property” and substituted “their” for “his” before “last” in the first paragraph; added the second sentence to the second paragraph; and added the second sentence to the third paragraph. Stats. 1985, Ch. 316, effective January 1, 1986, deleted “tax-deeded” after “assessee of the” in second paragraph.

Note.—See note following Section 2194.

3800. Cost. The cost of giving the notice of agreement shall be paid by the taxing agency or nonprofit organization by which the property is to be or may be purchased.

History.—Stats. 1977, Ch. 1120, in effect January 1, 1978, added “or nonprofit organization”.

3801. Affidavit. An affidavit showing that the notice of agreement has been given as prescribed shall be filed in the office of the county tax collector.

3802. Agreement effective. The agreement shall become effective no sooner than 5:01 p.m. on the 21st day after the first publication of the notice of agreement.

History.—Stats. 1945, p. 2195, in effect September 15, 1945, substituted “or” for “and,” and added “whichever is later.” Stats. 1978, Ch. 430, in effect January 1, 1979, deleted the words “does not become effective until 21 days” and added “shall become effective at 5:01 p.m. on the 21st day”. Stats. 1985, Ch. 316, effective January 1, 1986, substituted “no sooner than” for “or” after “effective”, deleted “or the mailing” after “publication”, deleted “whichever is greater” after “agreement”.

3803. Redemption. If not previously terminated, all rights to redeem the property shall terminate on the date and at the time the agreement becomes effective. If all or any portion of the property is redeemed before the agreement becomes effective, the agreement is null as to the property redeemed.

History.—Stats. 1941, p. 1441, in effect May 19, 1941, amended section to permit redemption prior to deed instead of prior to compliance with terms of purchase. Stats. 1947, p. 1631, in effect September 19, 1947, added references to installment plan redemption, and “whichever is later.” Stats. 1951, p. 1646, in effect September 22, 1951, deleted “or prior to the execution of a deed by the tax collector,” following “whichever is later.” Stats. 1957, p. 2180, in effect September 11, 1957, deleted “or an installment plan of redemption is initiated” preceding “within” and “or under the installment plan of redemption” at end of section. Stats. 1978, Ch. 430, in effect January 1, 1979, added the first sentence and deleted that portion of the second sentence which read “within 21 days after the first publication and the mailing of the notice of agreement whichever is later,” with the following “before the agreement becomes effective.”

3804. Deed to purchaser. (a) If any portion of the property is not so redeemed, the tax collector shall, without charge, execute to the purchaser a deed of the property as to which either:

(1) The agreement provides that no payment is to be made by the purchaser, or

(2) There has been paid the purchase price in compliance with the terms of the agreement.

(b) The tax collector shall promptly deliver the deed described in subdivision (a) to the county recorder for recordation and shall send a conformed copy of that deed to the Controller. The recorder shall record the deed and prepare necessary conformed copies without charge.

History.—Stats. 1941, p. 1441, in effect May 19, 1941, substituted subdivisions (a) and (b) for provision requiring merely “compliance with terms of the agreement.” Stats. 1947, p. 1631, in effect September 19, 1947, amended first paragraph by adding reference to installment plan redemption and substituting “deed of the property” for “deed of the unredeemed property” and revised former subdivision (a) which referred to an agreement providing for a tax collector’s deed to all or any portion of property not redeemed within 21 days after first publication and mailing of notice of the agreement even though no payment is made by the purchaser. Stats. 1957, p. 2180, in effect September 11, 1957, deleted “or an installment plan of redemption initiated” following “redeemed.” Stats. 1980, Ch. 411, in effect July 11, 1980, operative January 1, 1981, added the second paragraph. Stats. 1992, Ch. 523, in effect January 1, 1993, added “(a)” before the first paragraph; substituted “(1)” for “(a)” at the beginning of former subdivision (a); substituted “(2)” for “(b)” at the beginning of former subdivision (b); added “(b)” at the beginning of the former second paragraph, substituted “promptly . . . of that” after “shall”, and added “The recorder . . . charge.” as the second sentence of subdivision (b).

3804.2. Corrected deed. If a deed to the purchaser contains a clerical error or misstatement of fact, a corrected deed shall be issued by the tax collector and recorded with the county recorder without charge. The new deed shall contain a statement of reasons for its issuance and, as far as practical, shall be the same as the original except where corrected. The tax collector shall send a conformed copy of the new deed to the Controller.

History.—Added by Stats. 1979, Ch. 242, in effect July 10, 1979. Stats. 1992, Ch. 523, in effect January 1, 1993, substituted “shall” for “may” after “deed” in the first sentence; added “The . . . Controller,” as the third sentence.

3805. Contents of deed. In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(a) That the real property was subject to a power of sale pursuant to Section 3691 for nonpayment of taxes which had been legally levied and were a lien on the property.

(b) The name of the purchaser.

(c) Any condition deemed necessary to effect compliance with the agreement, including, but not limited to, a condition that the real property be used by the taxing agency or nonprofit organization for the public use specified in the agreement.

History.—Stats. 1943, p. 1938, in effect August 4, 1943, revised subsection (b). Stats. 1945, p. 2195, in effect September 15, 1945, eliminated requirement that the deed specify that the right of redemption has been terminated. Stats. 1975, Ch. 1053, p. 2493, in effect January 1, 1976, added the subdivision letters; relettered former subsections (a) and (b) as subsections (1) and (2), respectively; and added subdivision (b). Stats. 1976, Ch. 1079, p. 4885, in effect January 1, 1977, substituted “had” for “has” in subdivision (a)(1). Stats. 1977, Ch. 1120, in effect January 1, 1978, added “or nonprofit organization” in subdivision (b). Stats. 1979, Ch. 1188, in effect September 30, 1979, deleted the subdivision letters and numbers, added the subsection letters, and substituted “Any” for “The deed may further specify any” in subsection (c). Stats. 1985, Ch. 316, effective January 1, 1986, substituted “subject to a power . . . Section 3691” for “duly sold and conveyed to the state” after “was” in subdivision (a).

3806. Effect of deed. Except as against actual fraud, the deed is conclusive evidence of compliance with this article and otherwise has the same effect as evidence and as a conveyance as a deed to a private purchaser after sale of tax-deeded property under Chapter 7 (commencing with Section 3691) of this part. When the property is sold under an agreement providing for the resale of the property by the purchasing agent the deed given upon resale shall have the same effect.

History.—Stats. 1945, p. 1424, in effect September 15, 1945, added the second sentence. Stats. 1978, Ch. 430, in effect January 1, 1979, added the words “under Chapter 7 (commencing with Section 3691) of this part.” to the first sentence and deleted the words “and a pro rata division of the proceeds” following the word “property” in the second sentence and replaced it with the following language “by the purchasing agent”.

3807. Terminating redemption right. [Repealed by Stats. 1978, Ch. 430, in effect January 1, 1979.]

Application to property in distressed assessment districts.—When property is sold by the state to a city pursuant to Division 1, Part 6, Chapter 8 of the Revenue and Taxation Code, this section terminates the right to redemption even though the property is in a distressed assessment district. *Federated Income Properties, Inc. v. State of California*, 82 Cal.App.2d 893.

3807.3. Purchaser’s report to tax collector upon resale. [Repealed by Stats. 2000, Ch. 606, in effect January 1, 2001.]

History.—Added by Stats. 1943, p. 1938, in effect August 4, 1943. Stats. 1945, p. 1424, in effect September 15, 1945, added requirement for transmission of proceeds and added to subsection (c) the reference to deductible expenses. Stats. 1978, Ch. 430, in effect January 1, 1979, added “under this chapter” after “agreement”, substituted “authorized by Section 3793.5” for “for the pro rata division of the proceeds of the sale of the property” after “provisions”, added “following the date of resale” after “days”, and added “received from the resale” after “proceeds” in the first paragraph.

3807.5. Reconveyance by taxing agency. [Repealed by Stats. 2000, Ch. 606, in effect January 1, 2001.]

History.—Added by Stats. 1941, p. 1441, in effect May 19, 1941. Stats. 1945, p. 1425, in effect September 15, 1945, added last clause to first paragraph relating to privilege of redemption. Stats. 1949, p. 473, in effect October 1, 1949, amended last clause of first paragraph relating to restoration of privilege of redemption. Stats. 1977, Ch. 1120, in effect January 1, 1977, added “or for its rehabilitation following sale to a nonprofit organization,” and “or nonprofit organization” in the first sentence of the first paragraph. Stats. 1978, Ch. 430, in effect January 1, 1979, substituted “and the property . . . nonprofit agency” for “for the pro rata division of the proceeds of a sale of the property or for its rehabilitation following sale to a nonprofit organization, and the property is not sold by the taxing agency or rehabilitated by the nonprofit organization purchasing the property within two years after the execution of the deed,” in the first sentence of the first paragraph. Stats. 1979, Ch. 1188, in effect September 30, 1979, operative January 1, 1980,

substituted "If a taxing agency or nonprofit organization purchasing the property, pursuant to Section 3791.4 or Section 3793.5, does not meet the conditions imposed by Section 3791.4 or Section 3793.5" for "If the agreement contained provisions and the property is not resold by the taxing agency or rehabilitated by the nonprofit organization purchasing the property", and substituted "organization" for "agency" in the first sentence of the first paragraph. Stats. 1984, Ch. 988, in effect September 11, 1984, substituted "assessee" for "state" each place where it occurs in the first sentence, and substituted "tax-defaulted" for "tax-deeded" and deleted "by the state" after the second "property" in the third sentence of the first paragraph; and substituted "the notice to the Controller of power to sell" for "deeds to the state for taxes" in each place where it occurs in the second sentence of the second paragraph. Stats. 1985, Ch. 316, effective January 1, 1986, added "tax" after "recording of the", added "a rescission of the tax" after "execute."; deleted "Section" before "3793.5" twice, substituted "that" for "such" after "extension of" substituted "in the same manner . . . of Section 3731" for "to the assessee reconveying to the assessee all the right, title and interest of the assessee in the property which such taxing agency or nonprofit organization obtained by the deed of the tax collector under the provisions of this chapter."; deleted the second sentence of first paragraph; deleted second paragraph.

Note.—See note following Section 2194.

3808. Payment; distribution. [Repealed by Stats. 1978, Ch. 430, in effect January 1, 1979.]

3808. Payment; distribution. Any payment required by an agreement under this chapter shall be made to the county tax collector and, except as provided for in Section 3791.5, shall be deposited, like tax collections, in the delinquent tax sale trust fund and shall be distributed under Chapter 1.3 (commencing with Section 4671) of Part 8.

History.—Added by Stats. 1978, Ch. 430, in effect January 1, 1979. Stats. 1983, Ch. 1281, in effect September 30, 1983, substituted "4671" for "4670" after "Section", and deleted "of this division" after "Part 8".

3809. Contesting validity; statute of limitations. A proceeding based on alleged invalidity or irregularity of any agreement or deed executed under this article can only be commenced within one year after the execution of the instrument.

Sections 351 to 358, inclusive, of the Code of Civil Procedure do not apply to the time within which a proceeding may be brought under this section.

History.—Stats. 1988, Ch. 833, in effect January 1, 1989, added second paragraph.

Application.—This section applies to action by the original tax-delinquent owner in possession. However, a quiet title action against a city which purchased a tax deed from the state is not barred by the statute of limitations provided in this section, if the state's deed is fatally defective. *Edwards v. City of Santa Paula*, 138 Cal.App.2d 375.

The state's deed cuts off the former owner's right of redemption. It cannot be set aside after one year except for actual fraud. Tender of past taxes is a condition to any such action. Where the former owner's estate is subject to administration, the state is not required to obtain an order from the probate court prior to executing the deed because the right of redemption is a mere privilege, not an asset of the estate. *Glunt v. San Francisco*, 274 Cal.App.2d 269.

3810. Defense; statute of limitations. A defense or cross-complaint based on the alleged invalidity or irregularity of any agreement or deed executed under this article can only be maintained in a proceeding commenced within a year after the execution of the instrument.

History.—Stats. 1971, p. 393, in effect March 4, 1972, deleted " , counter-claim,".

3811. Tax collector's report to Controller. On execution of the deed to the taxing agency or nonprofit organization, and on receipt of a notice of resale of the property by the taxing agency the tax collector shall report the following within 10 days to the Controller, the assessor, and the auditor:

(a) The name of the purchaser.

(b) The date of the deed to the taxing agency or nonprofit organization, or in the event of resale the date of the deed by the taxing agency.

(c) The amount for which the property was sold or in the event of resale the net amount after deducting allowable expenses.

(d) The description of the property conveyed.

History.—Added by Stats. 1943, p. 1939, in effect August 4, 1943. Stats. 1945, p. 1425, in effect September 15, 1945, revised subdivisions (b) and (c). Stats. 1955, p. 837, in effect September 7, 1955, deleted “and recorder” after “auditor.” in the first sentence. Stats. 1974, Ch. 1101, p. 2344, in effect January 1, 1975, deleted “redemption officer” after “assessor” in the first sentence. Stats. 1977, Ch. 1120, in effect January 1, 1978, added “or nonprofit organization” in the first paragraph and in subdivision (b). Stats. 1988, Ch. 830, in effect January 1, 1989, deleted “State” before “Controller” and added “the” before “assessor” and before “auditor” in the first paragraph; deleted “(e) the numbers and dates of certificate of sale to the state and of the deed to the state.”

3813. Tax collector’s notations. The tax collector shall note the fact and date of a sale under this chapter on the margin of each delinquent and current roll on which the property appears, opposite the property sold. Any charges against the collector having custody of the delinquent and current rolls shall be reduced accordingly.

History.—Added by Stats. 1943, p. 1939, in effect August 4, 1943. Stats. 1974, Ch. 1101, p. 2344, in effect January 1, 1975, substituted “tax collector” for “redemption officer” in the first sentence, and substituted “collector” for “officer” in the second sentence.

3814. Disposition of purchase price. [Repealed by Stats. 1978, Ch. 430, in effect January 1, 1979.]

Article 3. Sales Between Taxing Agencies

3841. Sales authorized. If any property, whether subject to a power of sale pursuant to Section 3691 or not, is deeded for taxes to two or more taxing agencies, any one or more of them may sell and convey its or their interest in all or any portion of the property to any one or more of them for any agreed price and terms. Any one of them may, by itself or with another taxing agency, make the purchase.

History.—Enacted by Stats. 1939, Ch. 154, effective January 1, 1940. Stats. 1985, Ch. 316, effective January 1, 1986, substituted “subject to a . . . 3691” for “deeded to the State” after “whether” in the first sentence.

CHAPTER 9. CORRELATIVE RIGHTS OF TAXING AGENCIES

[Repealed by Stats. 1979, Ch. 1188, in effect September 30, 1979, operative January 1, 1980.] *

- § 3900. Tax deeds of all agencies to be on a parity. [Repealed.]
- § 3900.5. Tax deeds of certain districts convey title subject to prior rights. [Repealed.]
- § 3901. Alternative procedure provided. [Repealed.]
- § 3902. Procedure to be followed. [Repealed.]
- § 3903. Taxing agencies may perfect title. [Repealed.]
- § 3904. Termination of exclusive rental and sales agency. [Repealed.]
- § 3905. Compensation of agent. [Repealed.]
- § 3906. Duration of agency. [Repealed.]
- § 3907. Leases to be assigned to exclusive agent. [Repealed.]
- § 3908. Termination of right of redemption. [Repealed.]
- § 3909. Notice. [Repealed.]
- § 3910. Leases for more than two years restricted. [Repealed.]
- § 3911. Annual account by exclusive agent. [Repealed.]
- § 3912. “Rental.” [Repealed.]
- § 3913. Agreements, certifying and filing. [Repealed.]

* **Note.**—Section 8 of Stats. 1979, Ch. 1188, provided that notwithstanding the provisions of Section 3 of this act, any taxing agency which on the effective date of this act, had elected to become the sole leasing or sales agency under the provisions of Chapter 9 (commencing with Section 3900) of Part 6 of Division 1 of the Revenue and Taxation Code, may continue to do so, pursuant to the provisions of such chapter and other provisions of the Revenue and Taxation Code as they read prior to their repeal by this act.

CHAPTER 10. RIGHTS OF PURCHASER OF TAX-DEEDED PROPERTY, OR ANY OTHER PERSON CLAIMING THROUGH HIM, TO BRING ACTION TO DETERMINE ADVERSE CLAIMS TO OR CLOUDS UPON TAX-DEEDED PROPERTY PURCHASED FROM THE STATE

- § 3950. Action by purchaser.
- § 3951. Known defendants.
- § 3952. Unknown defendants.
- § 3953. Same.
- § 3954. Same.
- § 3955. Same.
- § 3956. Notice of action.
- § 3957. Summons.
- § 3958. Posting of summons.
- § 3959. Service of summons.
- § 3960. Publication of summons; due diligence required.
- § 3961. Effect of action on unknown defendants.
- § 3962. Proof required on default.
- § 3963. Trial.
- § 3964. Rights of defendants. [Repealed.]
- § 3965. Procedure on sale or partition.
- § 3966. Rights under special assessments.
- § 3967. Final decree.
- § 3968. Effect of decree.
- § 3969. Special assessments to be canceled.
- § 3970. Remedy cumulative.
- § 3971. "Treasurer."
- § 3972. "Special assessment."

3950. Action by purchaser. Whenever tax-defaulted property has been purchased at tax sale, including purchases made under Chapter 8 (commencing with Section 3771), and all subsequent taxes levied and payable have been paid, the purchaser, or any person claiming through the purchaser, may bring an action to determine adverse claims to or clouds upon that property. The complaint shall be verified and shall aver the matters above enumerated.

History.—Stats. 1943, p. 2743, in effect August 4, 1943. Stats. 1945, p. 2158, in effect September 15, 1945, eliminated requirement that the complaint set forth the interest of all persons in the property. Stats. 1951, p. 1611, in effect September 22, 1951, added "tax-sold or" after "whenever," substituted "including purchases made under Chapter 8 hereof" for "either under Chapter 7 or Chapter 8," and added "and payable" after "levied." Stats. 1985, Ch. 316, effective January 1, 1986, substituted "tax-defaulted" for "tax-sold or tax-deeded" after "whenever," substituted "at tax sale" for "from the state" after "purchased," substituted "(commencing with Section 3771)" for "here of" after "Chapter 8," substituted "the purchaser" for "him" after "claiming through".

Application.—This section and the other provisions of this chapter are applicable to property purchased from the state in 1921 under former Section 3785 of the Political Code which contained no provision for a deed to the state, but authorized the tax collector to convey tax-sold property by deed directly to the purchaser. *Marker v. Wendelken*, 136 Cal.App.2d 276.

3951. Known defendants. The complaint shall include as defendants to the action, all persons who are known to plaintiff or who appear of record to have some interest in or claim or cloud on the land described in plaintiff's complaint, arising prior to the date of the tax deed, other than persons owning a special assessment unless plaintiff seeks to determine the interest or claim of those persons. The state may be made a party defendant where the property was sold prior to September 10, 1984.

History.—Added by Stats. 1943, p. 2743, in effect August 4, 1943. Stats. 1945, p. 2158, in effect September 15, 1945, added to first sentence everything following "plaintiff's complaint." Stats. 1985, Ch. 316, effective January 1, 1986, added "tax" after "date of the," deleted "from the state" after "deed," substituted "those" for "such" after "claim of", in first sentence; added "where the property . . . September 10, 1984" after "defendant" in second sentence.

3952. Unknown defendants. The complaint may further include as defendants persons unknown to plaintiff who claim any right, interest, lien, or claim on the land or cloud upon the title of plaintiff thereto arising prior to the date of the tax deed. In any case in which any person who appears to have had an interest in the land or any claim or cloud upon the title of the plaintiff thereto is known to be dead, the heirs and devisees of that person may be sued as “the heirs and devisees” of the person, naming him or her, or if the person is believed to be dead and that belief is alleged in the complaint on information and belief then the heirs and devisees of that person may also be sued as “the heirs and devisees” of that person, naming him or her, provided that the person is also named as a defendant.

History.—Stats. 1945, p. 2158, in effect September 15, 1945, added to first sentence words beginning with “arising,” and added second sentence. Stats. 1949, p. 2581, in effect October 1, 1949, amended second sentence by adding “known to be” preceding “dead” and added provisions relating to a person who is believed to be dead. Stats. 1985, Ch. 316, effective January 1, 1986, added “,” after “lien,” added “tax” after “date of the” in first sentence; substituted “the” or “that” for “such” or “said,” added “or her” after “him,” added “the” after “title of” in second sentence.

3953. Same. All unknown defendants, except unknown defendants owning a special assessment, shall be described in the complaint, as follows: “Also all other persons unknown, claiming any right, title, estate, lien or interest in the real property described in the complaint, adverse to plaintiff’s ownership or any cloud upon plaintiff’s title thereto.”

History.—Added by Stats. 1943, p. 2744, in effect August 4, 1943.

3954. Same. Unknown defendants owning or claiming an interest in a special assessment shall be described in the complaint, as follows: “The owner or any person claiming an interest in a special assessment lien (here describe said lien as it is described in the bond or assessment records of the district in which it was issued).”

History.—Added by Stats. 1943, p. 2744, in effect August 4, 1943.

3955. Same. Whenever unknown defendants owning or claiming an interest in special assessments are made parties defendant, the following persons shall also be made parties defendant: (a) The payee, as shown by the bond representing the special assessment, if any; (b) the owner of the special assessment, or any person claiming an interest therein, as shown by the treasurer’s records; and (c) the treasurer, as collecting agent and trustee of the funds collected for unknown owners of a special assessment or persons claiming an interest therein.

History.—Added by Stats. 1943, p. 2744, in effect August 4, 1943.

3956. Notice of action. Within 10 days after the filing of the complaint, plaintiff shall file or cause to be filed in the office of the county recorder of the county where the property is situated, a notice of the pendency of the action, containing the matters required by Section 409 of the Code of Civil Procedure.

History.—Added by Stats. 1943, p. 2744, in effect August 4, 1943.

3957. Summons. Any summons that is issued shall contain the matters required by Section 412.20 of the Code of Civil Procedure, and in addition, a description of the property and a statement of the object of the action. In the summons, the unknown defendants shall be designated as they are in the complaint.

History.—Added by Stats. 1943, p. 2744, in effect August 4, 1943. Stats. 1969, p. 3404, operative July 1, 1970, completely revised this section.

3958. Posting of summons. Within 30 days after the issuance of the summons, the plaintiff shall post, or cause to be posted, a copy thereof in a conspicuous place on the property.

History.—Added by Stats. 1943, p. 2744, in effect August 4, 1943.

3959. Service of summons. All known defendants shall be served in the manner provided by law for the service of a summons in a civil action.

History.—Added by Stats. 1943, p. 2744, in effect August 4, 1943. Stats. 1969, p. 3404, operative July 1, 1970, completely revised this section.

3960. Publication of summons; due diligence required. All unknown defendants shall be served by publication as provided for in Section 415.50 of the Code of Civil Procedure, but it must appear by affidavit that the plaintiff used reasonable diligence to ascertain the identity of the unknown defendants and to ascertain the identity of any persons sued as heirs and devisees.

History.—Added by Stats. 1943, p. 2744, in effect August 4, 1943. Stats. 1945, p. 2159, in effect September 15, 1945, added last clause. Stats. 1969, p. 3404, operative July 1, 1970, completely revised this section.

3961. Effect of action on unknown defendants. All unknown defendants served by publication shall have the same rights as are provided by law for other defendants upon whom personal service or service by publication is made. The action shall proceed against the unknown defendants in the same manner as against the other defendants who are served personally or by publication. Regardless of any legal disability, any unknown defendant, who has been served, and anyone claiming under him, who has or claims to have any right, title, estate, lien or interest in the property, or cloud upon the title thereto, or who owns or claims to own an interest in a special assessment lien adverse to plaintiff at the time of the commencement of the action, shall be concluded by a judgment in the action as if the action were brought against and personal service made upon that person by his or her name. Service shall be deemed complete upon the completion of the publication.

History.—Added by Stats. 1943, p. 2745, in effect August 4, 1943.

3962. Proof required on default. No decree quieting title or establishing the rights of any of the defendants as to the property shall be granted on default of the defendant, unless the court requires proof of the facts alleged.

History.—Added by Stats. 1943, p. 2745, in effect August 4, 1943.

3963. Trial. On the trial of the action, the court shall determine the rights of all the parties thereto.

History.—Added by Stats. 1943, p. 2745, in effect August 4, 1943.

3964. Rights of defendants. [Repealed by Stats. 1991, Ch. 1091, in effect January 1, 1992.]

3965. Procedure on sale or partition. If the court orders a sale of the property or a partition thereof, the same shall be made in accordance with the provisions of Title 10.5 (commencing with Section 872.010) of Part 2, of the Code of Civil Procedure, except that proceeds of sale belonging to unknown special assessment owners, or persons claiming an interest in said special assessments, shall be paid to the treasurer, to be held by him as in like instances of collections by said treasurer of special assessments.

History.—Added by Stats. 1943, p. 2745, in effect August 4, 1943. Reenacted by Stats. 1945, p. 2159, in effect September 15, 1945, with change in punctuation. Stats. 1976, Ch. 73, p. 129, in effect January 1, 1977, substituted “Title 10.5 (commencing with Section 872.010) of Part 2” for “Chapter 4, Title 10, Part 2”, deleted the former subsection letters, and deleted the former subsection (a) pertaining to the appointment of referees.

3966. Rights under special assessments. If the right, title, interest, lien or estate of a known or unknown defendant established by the decree of the court, is based upon a special assessment or arises from a special assessment, the decree establishing such rights shall direct the treasurer to cancel the special assessments on his records.

History.—Added by Stats. 1943, p. 2745, in effect August 4, 1943.

3967. Final decree. If the court determines that none of the defendants have any right, title, interest, lien or estate in the property, the court shall render its final decree quieting the plaintiff’s title under the tax deed and, if any of the defendants claims to be the owner of or have an interest in a special assessment, which special assessment the court determines to be invalid or inferior to plaintiff’s title, the decree shall direct that the treasurer cancel the assessment on his records.

History.—Added by Stats. 1943, p. 2745, in effect August 4, 1943.

3968. Effect of decree. The decree, after it has become final, is conclusive against all the persons named in the complaint who have been served and all unknown persons and the heirs and devisees of any named defendant served as in this chapter provided.

History.—Added by Stats. 1943, p. 2745, in effect August 4, 1943. Stats. 1945, p. 2159, in effect September 15, 1945, added the balance of the sentence after “who have been served.”

3969. Special assessments to be canceled. After the judgment has become final, a certified copy thereof shall be delivered to the treasurer. Upon receipt of the copy, he shall cause to be canceled the special assessments described in the decree. The treasurer shall, upon his records, mark the special assessment as follows: “Canceled by judgment of court, superior court case number (here give number).”

History.—Added by Stats. 1943, p. 2745, in effect August 4, 1943.

3970. Remedy cumulative. The remedy provided in this chapter shall be construed as cumulative and not exclusive of any other remedy, form or right of action or proceeding now allowed by law.

History.—Added by Stats. 1943, p. 2745, in effect August 4, 1943.

3971. **“Treasurer.”** “Treasurer,” as used in this chapter, means any person who is the custodian of the funds collected on special assessments and/or has the duty to cancel the assessments upon the payment thereof.

History.—Added by Stats. 1943, p. 2746, in effect August 4, 1943.

3972. **“Special assessment.”** “Special assessment,” as used in this chapter, means any assessment levied pursuant to any of the improvement acts of the State of California, whether or not represented by a bond, and which are liens upon a specific parcel of real property.

History.—Added by Stats. 1943, p. 2746, in effect August 4, 1943.

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